

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

CASE NO.

RUSSELL CHARD, on behalf of himself
and similarly situated individuals,
and RETIRED FIREFIGHTERS
LEGAL DEFENSE FUND, INC.,

Plaintiffs,

v.

Class Action

THE BOARD OF TRUSTEES OF THE CITY
OF HOLLYWOOD FIREFIGHTERS' PENSION
SYSTEM and CITY OF HOLLYWOOD,

Defendants.

CLASS ACTION COMPLAINT
FOR DECLARATORY JUDGMENT, PERMANENT INJUNCTION,
DAMAGES, AND OTHER RELIEF

Plaintiffs, Russell Chard, on behalf of himself and similarly situated individuals (“Retired Firefighters”) and Retired Firefighters Legal Defense Fund, Inc. (“Association”), sue Defendants The Board of Trustees of the City of Hollywood Firefighters’ Pension System (“Board”) and City of Hollywood (“City”) pursuant to 42 U.S.C. § 1983 to vindicate the Retired Firefighters’ constitutional protections against impairment of contract and unlawful taking of property under Article I, § 10 and the 5th and 14th Amendments to the United States Constitution and prohibit the Defendants’ modification, reduction or elimination of the Retired Firefighters’ contractual supplemental pension benefit.

Plaintiffs also sue to vindicate the Retired Firefighters’s constitutional protections against impairment of contract and unlawful taking of property under Article I, § 10 and Article X, § 6, of

the Florida Constitution. Another mutually reinforcing fundamental right implicated is the right to bargain collectively under Article I, § 6 of the Florida Constitution. These mutually reinforcing guarantees should be read together and with Article X, § 14 of the Florida Constitution and Chapters 112, 175, and 447 (Part II), Florida Statutes, to prohibit Defendants from in any manner repudiating the Retired Firefighters' supplemental pension benefit. Also, Defendants' actions are prohibited by common law actions of breach of contract, equitable estoppel, and waiver. Plaintiffs sue under the Declaratory Judgment Act, 28 U.S.C. § 2201 for declaratory relief and sue for injunctive, monetary and other relief.

JURISDICTION

1. This Court has original jurisdiction pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 1983 as the federal claims arise under the United States Constitution and the laws of the United States. This Court has supplemental jurisdiction over all state claims pursuant to 28 U.S.C. § 1367 as the claims are so related to the federal claims that they form part of the same case and controversy under Article III of the United States Constitution.

VENUE

2. Venue is appropriate pursuant to 28 U.S.C. 1391(b) as Defendants are located within this judicial district and the events giving rise to this complaint occurred within this judicial district.

PARTIES

3. Plaintiff Chard and each of the “Retired Firefighters” was employed by the City as a “firefighter” within the meaning of the Marvin B. Clayton Firefighters Pension Trust Fund Act, Chapter 175, Florida Statutes, and as such was a contributing member of the City of Hollywood Firefighters’ Pension System (the “Plan”); retired (as defined and explained in ¶ 21, *infra*) prior to July 15, 2009; and is currently entitled to a defined benefit for life, or is the survivor of said member who is currently entitled to a defined pension benefit for life.

4. The Retired Firefighters Legal Defense Fund, Inc. (“Association”) is a nonprofit association organized to bring and defend against litigation to protect the rights of the Retired Firefighters as beneficiary members of the Plan and to pay related legal expenses.

5. The City of Hollywood is a municipal government of the State of Florida and the sponsoring government of the Plan.

6. The Board of Trustees of the City of Hollywood Firefighters’ Pension System (“Board”) is an independent body politic with a fiduciary duty to provide the Retired Firefighters’ retirement benefits. The Board has the express power to sue and be sued in its own name, to bring and defend lawsuits, and to enter into contracts.

BACKGROUND AND FACTS

The defined benefit pension plan.

7. Over 50 years ago, the Florida Legislature established a single employer defined benefit retirement plan for the purpose of providing a lifetime source of income upon retirement to firefighters of the City.

8. Pursuant to Chapter 175, Florida Statutes, the Plan is funded by the State of Florida's annual rebate of property insurance premium tax revenues in addition to mandatory contributions from the City and its firefighters.

9. To participate in this revenue sharing program based on insurance premium taxes, the Plan must meet certain minimum requirements and be managed, administered, operated, and funded to maximize the protection of the firefighters' pension trust funds.

10. Effective March 12, 1999, until amended on July 1, 2011, § 175.351, Florida Statutes provided among other things:

- (1) PREMIUM TAX INCOME. - If a municipality has a pension plan for firefighters ... which in the opinion of the division meets the minimum benefits and minimum standards set forth in this chapter, the board of trustees of the pension plan, *as approved by a majority of firefighters for the municipality*, may:
 - (a) Place the income from the premium tax in s. 175.101 in such pension plan *for the sole and exclusive use of its firefighters, ... where it shall become an integral part of that pension plan and shall be used to pay extra benefits to the firefighters included in that pension plan...*

§ 175.351 (emphasis supplied).

11. During this period, the insurance premium tax revenues must be used for the sole and exclusive use of the Plan's firefighters and to pay extra benefits to the firefighters included in the pension plan.

12. Article X, § 14 of the Florida Constitution, along with Chapters 112 and 175, Florida Statutes, requires certain actuarial soundness, oversight by the Florida Department of Management Services, Division of Retirement, and other special conditions related to the insurance premium tax revenues.

13. The Florida Department of Management Services, Division of Retirement determines disbursement of premium tax money and oversees and monitors the Plan for actuarial soundness and statutory compliance.

14. The City's mandatory contributions must be adequate to maintain the Plan on a sound actuarial basis and meet funding deficiencies.

15. The Board is a voting entity with a fiduciary duty to provide the Retired Firefighters' retirement benefits. The Board is charged with the proper operation and administration of the Plan's fund in the best interests of the members and participants. It is comprised of three firefighters who are employed by the City who are elected by a majority of the active firefighters, the Chief of the fire department, and a fifth person chosen and appointed by the City Commission who also serves as Chairman of the Board.

16. Section 175.071(5), Florida Statutes, states that "nothing herein shall empower a board of trustees to amend the provisions of a retirement plan without the approval of the municipality or special fire control district." Retroactive benefit modification is statutorily prohibited.

**Public sector employees' rights to collectively bargain
retirement benefits and have those benefits set by contract**

17. Public sector employees in Florida have constitutional and statutory rights to collectively bargain wages, hours, terms and conditions of employment, including retirement benefits under Article I, § 6 of the Florida Constitution and Chapter 447, Part II, Florida Statutes.

18. Hollywood Professional Fire Fighters, Local 1375 ("Local 1375") has been, at all times relevant, the certified collective bargaining representative of the City's firefighters.

19. Since at least 1987, the City and Local 1375 have negotiated over the pension plan which came to be known as the “Hollywood Firefighters’ Pension System,” “plan” or “merged plan.”

**The Retired Firefighters retired prior to July 15, 2009,
and their contractual benefits cannot be reduced or eliminated.**

20. When a pension plan member reaches normal retirement eligibility and retires, his or her pension benefits become contractual entitlements which may not be modified, reduced or eliminated.

21. All of the Retired Firefighters retired prior to July 15, 2009. “Retired” includes anyone who entered the deferred retirement option plan (“DROP”) prior to July 15, 2009. A Plan member who enters the DROP is “retired” for purposes of the Plan and must leave employment entirely within a specified time.

22. The Retired Firefighters’ supplemental pension benefit was set prior to July 15, 2009 and cannot be modified, reduced or eliminated, as detailed below.

**The supplemental pension benefit
was collectively bargained and set by contract in 1999.**

23. The annual supplemental pension benefit was implemented pursuant to the negotiated contract between the City and Local 1375, in effect from October 1, 1999 through September 30, 2002. Article 28, § 4 of this contract states:

Effective 10/1/99, the Board of Trustees shall be authorized to create and distribute *an annual supplemental pension benefit which shall be payable first on September 30, 2000, and then every September 30 thereafter.* The supplemental pension benefit *shall be calculated, administered, and distributed as follows:*

- a) The actuary for the pension fund shall determine the *percentage rate of investment return on the pension fund assets during the twelve (12) month period ending each September 30th (“annual investment return”).* The rate determined shall be the rate reported in the most recent actuarial report submitted pursuant to Part VII of Chapter 112, Florida Statutes.

- b) If the annual investment return exceeds the actuary's annual fund earnings assumption rate of eight percent (8%), then a supplemental pension distribution shall be made to eligible recipients. If the annual investment return equals or is less than the assumption rate, no supplemental pension distribution shall be made that year.
- c) The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10%) and the annual fund earning assumption rate (8%) to a maximum annual investment return value of up to two percent (2%) *as calculated on the retirees' portion of the fund's earnings.*
- d) Eligible recipients for supplemental pension benefit distribution shall be:
 - (1) Current pension recipients who retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.
 - (2) Surviving spouses (or other beneficiaries) of deceased pension recipients who had retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.
- e) The supplemental pension benefit fund shall be divided into equal shares, the number of which shall equal the aggregate number of eligible recipients. On an annual basis, one share shall be awarded and paid, when appropriate, to each eligible recipient.

(e.s.) Appended hereto as Exhibit 1 is a true and correct copy of the 1999-2002 contract.

24. The supplemental pension benefit was implemented with approval of the State's Division of Retirement.

25. The supplemental pension benefit was created to supplement the retirement benefits of the Retired Firefighters who have been retired for ten years or more, and the contractual benefit immediately applied to said retirees.

26. In 1999, the fund's "annual investment return" was based on the market value as reported in actuarial reports.

27. The supplemental pension benefit was implemented based upon “the retirees’ portion of the fund’s earnings” without limitation or exclusion.

28. The supplemental pension benefit was implemented to be “payable on September 30” which is the last day of the City’s fiscal year. The supplemental pension benefit is also referred to as the “13th check” because in years when it is issued, Retired Firefighters receive an extra or 13th check from the Plan.

**The supplemental pension benefit was affirmed
by union contracts and City Charter and
benefit checks were issued in 2000, 2001, 2004, 2006 and 2008.**

29. The supplemental pension benefit was affirmed in the union contracts approved by the City Commission for 2002-05 and 2005-08 and in the City Charter as approved by the City Commission and a majority vote of the firefighter Plan members. Appended hereto as Composite Exhibit 2 is the supplemental pension benefit as provided in both the City Charter and union contracts prior to July 15, 2009.

30. A supplemental pension benefit check was issued in 2000, 2001, 2004, 2006, and 2008 based upon (1) the market value annual investment return and (2) the retirees’ portion of the fund’s earnings.

**Amendments to the supplemental pension benefit
made on or after July 15, 2009,
do not retroactively apply to the Retired Firefighters.**

31. On July 15, 2009, the City Commission voted to amend the supplemental pension benefit by, among other things, adding the following provision:

The supplemental benefits provided under this section shall only be paid after such time as the system has recovered any aggregate losses experienced beginning with

the actuarial experience on or after October 1, 2008. If the plan has failed to recover any such aggregate losses, then no supplemental benefit shall be paid.

Following a referendum election in or around November 2010, the City Commission voted to move the Firefighters' Pension System including the supplemental pension benefit from the City Charter to the Code of Ordinances. The July 15, 2009 amendment of the supplemental pension benefit does not apply to the Retired Firefighters, all of whom retired under the Plan prior to July 15, 2009.

32. On or around July 25, 2009, the City and Local 1375 signed the 2008-09 union contract which amended the supplemental pension benefit language to include the July 15, 2009 amendment and to cap the benefit at \$12,000 for employees who retired on or after July 16, 2009, among other things. The 2008-09 union contract which was signed on or around July 25, 2009, does not apply to the Retired Firefighters, all of whom had retired under the Plan prior to July 15, 2009.

33. On September 7, 2011, the City voted to amend the supplemental pension benefit language in the Code of Ordinances as follows (additions underlined and deletions lined-through):

Sec. 33.060 Supplemental pension benefit.

- (C) The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10%) and the annual fund earning assumption rate of eight percent (8%) to a maximum annual investment return value of up to two percent (2%) as calculated on the eligible Retirees' portion of the Fund's earnings attributable to assets apportioned to retiree benefit liability.
- (D) Supplemental ~~Eligible recipients for supplemental~~ pension benefit distributions ~~distribution~~ shall be paid to:
 - (1) Pension ~~Current pension~~ recipients who retired or entered into the DROP (i) on or before September 30, 2011 and (ii) at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.

- (2) Surviving spouses (or other Beneficiaries) of deceased pension recipients who had retired or entered into the DROP (i) on or before September 30, 2011 and (ii) at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.

The September 7, 2011, amendment was not included in the union contract and did not apply to the Retired Firefighters, all of whom had retired under the Plan prior to July 15, 2009.

A supplemental pension benefit check was issued in 2013.

34. A supplemental pension benefit check was issued in 2013 based upon (1) the market value annual investment return and (2) the retirees' portion of the fund's earnings. This check was issued consistent with the contract language and the practice applied from 1999 through the Retired Firefighters' retirement. At the Board's related public meeting on June 21, 2013, the Board's attorney recognized "that there are 3 groups of retirees requiring different treatment" and "anyone who retired or who was eligible to retire prior to July 15, 2009, and his or her beneficiaries, is eligible to receive a 13th check. Retirement includes anyone who entered the DROP prior to July 15, 2009." Further, she recognized the City's legislative amendments to the supplemental pension benefit did not modify, reduce or eliminate the benefit as to anyone who retired prior to July 15, 2009. At the meeting:

Trustee Pratt moved to direct the Plan's actuary to determine whether anyone in either Group 1 or 2 is entitled to receive a 13th check based upon the pension fund's performance for the last 12 month reporting period ending September 30th, then to direct the actuary to review each prior 12 month period until the last time a 13th check was paid to make the same determination. Trustee Huddleston seconded the motion. All were in favor.

Appended hereto as Exhibit 3 is a true and correct copy of the Board minutes for June 21, 2013.

35. At the Board's public meeting on July 26, 2013, "Trustee Payne moved to pay \$18,846.90 (the full amount) of the 13th check to all eligible retirees. Trustee Huddleston seconded

the motion. All were in favor.” Appended hereto as Exhibit 4 is a true and correct copy of the Board minutes for July 26, 2013.

The contractual benefit was impaired in 2014.¹

36. On June 24, 2014, the Board held a public meeting where its actuary advised that “the Ordinance is unclear on certain issues regarding the 13th check” and the Board could save the City millions of dollars and reduce the value of the supplemental pension benefit by modifying the method used for calculating the benefit. Specifically, he suggested that the Board consider issuing the benefit based upon the actuarial smoothed value annual investment return instead of the market value, explaining that “Actuarial returns smooth returns over 5 years which takes the volatility out of the market returns.” He also suggested that the Board consider issuing the benefit based on a pool of assets that was substantially less than “the retirees’ portion of the fund’s earnings,” claiming “that the changes made in 2009 [after the Retired Firefighters had retired] did not cap the pool of assets to be distributed for the 13th check. It just excluded some people from getting it and the amount they could get. The total amount paid out would not change.” Appended hereto as Exhibit 5 is a true and correct copy of the Board’s minutes for June 24, 2014.

37. Thereafter, the Board voted, upon motion and second, to modify the calculation of the supplemental pension benefit by using (1) the actuarial smoothed value annual investment return instead of market value and (2) the retirees’ portion of the fund’s earnings excluding fund earnings of retirees who were not yet eligible to receive the supplemental pension benefit, thus reducing the pool of assets to be distributed for the benefit.

¹ The City and the Board signed an agreement to toll the statute of limitations related to the Plaintiffs’ supplemental pension benefit claims in this action.

38. In excluding fund earning of retirees who were not yet eligible to receive the pension benefit, the Board applied the City's September 7, 2011, amendment to the Retired Firefighters' supplemental pension benefit.

39. On July 24, 2014, the Board held a public meeting where its actuary presented the following information according to the minutes:

The amount of the 13th check, if payable, will be \$8,997.35. The 13th check for last year was around \$18,850. The way it was calculated before was that all of the assets and all of the retiree liability were considered. The excess return on all of the assets was bigger than 2% of the liabilities. Last year, there were 161 eligible members for the 13th check. This year there are 177 eligible members. The asset pool was around \$1.6 million this year and around \$3 million last year. Mr. Heinrichs commented if the Board would have kept the prior interpretation that 13th check would have continued to increase as assets increase. Now he would expect the amount of the 13th check will not increase by much, if any, and eventually start to decline over time.

Thereafter, the Board, upon motion and second, voted to issue the supplemental pension benefit payable based upon (1) the actuarial smoothed value annual investment return instead of the market value and (2) the retirees' portion of the fund's earnings excluding fund earnings of retirees who were not yet eligible to receive the supplemental pension benefit, thus capping the pool of assets to be distributed for the benefit. Appended hereto as Exhibit 6 is a true and correct copy of the Board's minutes for July 24, 2014.

40. The Board's enactment of the motions it voted upon on June 24 and July 24, 2014, modified and substantially reduced the monetary value of the Retired Firefighters' supplemental pension benefit issued in 2014.

Plaintiffs objected to the impairment of contract.

41. The Retired Firefighters and the Association objected that the Board's actions in issuing the supplemental pension benefit in 2014 unlawfully impaired the Retired Firefighters' contractual rights.

42. On March 10, 2015, Plaintiffs' counsel Richard Sicking sent a letter to the Board Chairman which stated in pertinent part:

Further, it is well settled law that once a member reaches normal retirement eligibility, benefits cannot be reduced or eliminated. *See State ex. Rel. Stringer v. Lee*, 2 So.2d 127, 132-33 (Fla 1941); *O'Connell v. State of Florida, Dept. of Admin., Div. Of Retirement*, 557 So.2d 609 (Fla. 3d DCA 1990).

This means that the motion made at the June 24, 2014, meeting would only apply to employees who retired after the effective date of City of Hollywood Ordinance No. 0-2011-26 [September 7, 2011]. It would not apply to those employees who retired prior to the effective date of City of Hollywood Ordinance No. 0-2011-26.

(Internal quotations and citations omitted.) Appended hereto as Exhibit 7 is a true and correct copy of the March 10, 2015 letter.

The contractual benefit was impaired in 2015.

43. On April 17, 2015, the Board voted, upon motion and second, to issue the supplemental pension benefit payable on September 30, 2014, based upon (1) the actuarial smoothed value annual investment return and (2) the retirees' portion of the fund's earnings excluding fund earnings of retirees who were not yet eligible to receive the supplemental pension benefit.

44. The Board's actions as described above, substantially reduced the monetary value of the Retired Firefighters's supplemental pension benefit issued in 2015. Appended hereto as Exhibit 8 is a true and correct copy of the Board's minutes for April 17, 2015.

**Impairment of the contractual benefit is threatened
by the City's 2015 lawsuit against the Board.**

45. In September 2015, the City sued the Board in state court asking that the Board be ordered to retroactively apply the July 15, 2009, amendment to the Retired Firefighters' supplemental pension benefits and to recoup the supplemental pension benefits paid to the Retired Firefighters in 2014 and 2015. By simple majority, the City Commission had voted to authorize its General Counsel to file that lawsuit.

The contractual benefit was impaired in 2016.

46. On June 22, 2016, the Board voted, upon motion and second, to issue the supplemental pension benefit payable on September 30, 2015, based upon (1) the actuarial smoothed value annual investment return and (2) the retirees' portion of the fund's earnings excluding fund earnings of retirees who were not yet eligible to receive the supplemental pension benefit. This supplemental pension benefit should not have been issued to the Retired Firefighters pursuant to their contractual rights as the market return for fiscal year ending September 30, 2015, was less than 3%. Issuance of this benefit check reduced the future value of the supplemental pension benefits due to the Retired Firefighters by removing their money from the fund where it otherwise would have remained and continued to earn interest for them. Appended hereto as Exhibit 9 is a true and correct copy of the Board's minutes for June 22, 2016.

The contractual benefit was Impaired in 2017

47. On June 29, 2017, the Board voted, upon motion and second, to issue the supplemental pension benefit payable on September 30, 2016, based upon (1) the actuarial smoothed

value annual investment return and (2) the retirees' portion of the fund's earnings excluding fund earnings of retirees who were not yet eligible to receive the supplemental pension benefit.

48. The Board's actions as described above, substantially reduced the future value of the Retired Firefighters' supplemental pension benefits issued in 2017. Appended hereto as Exhibit 10 is a true and correct copy of the Board's minutes for June 29, 2017.

The contractual benefit was Impaired in 2018

49. On September 27, 2018, the Board voted, upon motion and second, to issue the supplemental pension benefit payable on September 30, 2017, based upon (1) the actuarial smoothed value annual investment return and (2) the retirees' portion of the fund's earnings excluding fund earnings of retirees who were not yet eligible to receive the supplemental pension benefit. The Board's actions as described above, substantially reduced the future value of the Retired Firefighters' supplemental pension benefits issued in 2018. Appended hereto as Exhibit 11 is a true and correct copy of the Board's minutes for September 27, 2018.

**Defendants have impaired or seek to impair
the Retired Firefighters' contractual and property rights
to their pension benefits.**

50. Defendants have impaired or are threatening to impair the Retired Firefighters' right to receive the supplemental pension benefit to which they are contractually entitled, by changing the calculation of the benefit and thereby reducing or eliminating it.

51. Defendants' actions violate the statutory intent and mandate to provide a uniform retirement system and to prevent retroactive decreases to benefits under Article X, § 14 of the Florida Constitution and Chapters 112, 175 and 447, Florida Statutes.

52. Defendants' changes, reductions, and threatened elimination of the Retired Firefighters' contractual benefits are sufficiently immediate and real and have caused and will cause the Retired Firefighters injury.

53. Defendants' actions, together and individually, constitute a substantial impairment and diminution of the contractual and property rights and benefits enjoyed by the Retired Firefighters who are expressly intended beneficiaries of the contract under which they retired, undermining confidence among the parties involved and thereby causing grave uncertainty and expense for the Retired Firefighters and the Association.

54. Defendants' actions are neither reasonable nor necessary to serve an important governmental interest or protect public health, safety and welfare. Rather, the unlawful actions herein described reflect a unilateral decision by Defendants to avoid a contractual obligation they no longer want to honor in favor of spending city resources on more politically popular causes.

55. Defendants' actions have been adopted by Defendants' official policies, through the actions of Defendants' highest policy makers, and deprive Retired Firefighters of their property and contract rights under color of state law in violation of 42 U.S.C. § 1983.

CONSTITUTIONAL PROVISIONS

56. Article I, § 10 of the United States Constitution prohibits states, including their municipal corporations, from adopting any law which impairs the obligation of contracts.

57. The 5th and 14th Amendments of the United States Constitution prohibit states, including their municipal corporations, from unlawful takings of property without just compensation.

58. Article I, § 10 of the Florida Constitution prohibits contract impairment.

59. Article X, § 6 of the Florida Constitution prohibits the taking of property without just compensation.

60. Defendants are prohibited from using their powers to impair a statutory or contractual right or obligation set by law or contract. See Orange County Police Benevolent Association v. City of Casselberry and Florida Public Relations Commission, 457 So.2d 1125 (Fla. 1st DCA 1984).

CLASS ACTION ALLEGATIONS

61. Plaintiff Chard brings this lawsuit on behalf of himself and the proposed class members under Federal Rule of Civil Procedure 23(a), (b)(1), (b)(2) and (b)(3). This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of those provisions. Moreover, class certification is proper as the claims in this action derive from the same set of operative facts, Defendants acted on grounds applicable to the Class and Plaintiff Chard, and all Class members have been impacted and harmed by the acts of Defendants.

62. Plaintiff Chard seeks to represent the proposed class defined as follows: all members of the City of Hollywood Firefighters' Pension System who retired under the Plan from the City prior to July 15, 2009 and are currently entitled to pension benefits, and the survivors of said members who are currently entitled to pension benefits. Excluded from the Class are current employees of the City; members of the Plan who retired under the Plan from the City on or after July 15, 2009; and former members and survivors who are not currently entitled to pension benefits.

63. Numerosity. The proposed Class consists of approximately 197 individuals. This Class is so numerous that individual joinder of all Class members would be impracticable. As a general rule, a group of more than 40 members satisfies the numerosity requirement.

64. Commonality. All or nearly all questions of law and fact are common to the class. These common factual and legal questions, which do not vary from Class member to Class member, and which may be determined without reference to the individual circumstances of any Class member include, but are not limited to, the following:

(A) Whether Defendants' actions impair or threaten to impair the Retired Firefighters' contractual rights in violation of Article I, § 10 of the United States Constitution and contractual and collective bargaining rights in violation of Article I, §§ 6 and 10 of the Florida Constitution;

(B) Whether Defendants' actions constitute an unlawful taking or threatened unlawful taking of property without just compensation in violation of the 5th and 14th Amendments to the United States Constitution and Article X, § 6 of the Florida Constitution;

(C) Whether Defendants' actions violate the constitutional and statutory intent and mandate to provide a uniform retirement system and to prevent retroactive decreases to benefits under Article X, § 14 of the Florida Constitution and Chapters 112, 175 and 447, Florida Statutes;

(D) Whether the Retired Firefighters have a contractual right to the supplemental pension benefit as it was provided to them from 1999 until July 24, 2014 (the date changes were first applied to the supplemental pension benefit issued to the Retired Firefighters);

(E) Whether Defendants have waived and are estopped from reducing or eliminating the supplemental pension benefit as it was provided to the Retired Firefighters from 1999 until July 24, 2014; and

(F) Whether Defendant City has waived and is estopped from retroactively recouping any supplemental pension benefits that have been paid to the Retired Firefighters.

65. Typicality. The claims of the representative Plaintiff are typical (if not identical) of the claims of the Class and arise from the same course of conduct by Defendants. The class representative is Russell Chard who was employed by the City as a firefighter, was a contributing member of the Plan, retired prior to July 15, 2009 (in June 2004) and possesses the same interests and has suffered the same injury as the Class members.

66. Adequacy of Representation. Plaintiff Chard will fairly and adequately protect the interests of the members of the Class. He has no adverse or antagonistic interests to those of the Class. He has retained experienced, qualified and competent counsel committed to prosecuting this class action.

67. Predominance. The common questions of law and fact, *supra*, predominate over questions, if any, affecting only individual members of the Class.

68. Superiority. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because individual litigation of the claims is impracticable. Absent a class action, most Class Members would likely find the cost of litigating their individual claims prohibitively high and would therefore have no effective remedy. Moreover, individual litigation would be unduly burdensome for the parties and the Court to manage. On the other hand, management of this action through Class representatives and the Association fosters judicial economy and fair and efficient adjudication of the controversy.

69. Additionally, the prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of

the Class which would establish incompatible standards of conduct for Defendants. And, adjudication with respect to individual members, as a practical matter, would be dispositive of the interests of non-party members or would substantially impair or impede the ability of non-party members to protect their interests.

70. Moreover, Defendants acted on grounds generally applicable to the Class, so that the final injunctive and declaratory relief sought herein are appropriate with respect to the Class as a whole. Any damages awarded flow directly from liability to the Class as a whole on the claims forming the basis of the injunctive and declaratory relief.

COUNT I: IMPAIRMENT OF OBLIGATION OF CONTRACT

71. Plaintiffs adopt and incorporate by reference herein paragraphs 1 through 71, above.

72. Defendants' actions repudiating the supplemental pension benefit contract impair and diminish, and threaten to impair and diminish, the obligation of contract in violation of Article I, § 10 of the United States Constitution.

COUNT II: UNLAWFUL TAKING OF PROPERTY WITHOUT JUST COMPENSATION

73. Plaintiffs adopt and incorporate by reference herein paragraphs 1 through 71, above.

74. Defendants' actions repudiating the supplemental pension benefit contract have resulted or will result in a confiscation of the Retired Firefighters' valuable contract and property rights without just compensation in violation of the 5th and 14th Amendments of the United States Constitution.

COUNT III: VIOLATION OF ARTICLE 1, §§ 6 & 10,
FLORIDA CONSTITUTION

75. Plaintiffs adopt and incorporate by reference herein paragraphs 1 through 71, above.

76. Defendants' actions repudiating the supplemental pension benefit contract impair or diminish, and threaten to impair and diminish, the obligation of contract and collective bargaining in violation of the Article I, §§ 6 and 10 of the Florida Constitution.

COUNT IV: VIOLATION OF ARTICLE X, § 6,
FLORIDA CONSTITUTION

77. Plaintiffs adopt and incorporate by reference herein paragraphs 1 through 71, above.

78. Defendants' actions repudiating the supplemental pension benefit contract have resulted or will result in a confiscation of the Retired Firefighters' valuable contract and property rights without just compensation in violation of Article X, § 6 of the Florida Constitution.

COUNT V: BREACH OF CONTRACT

79. Plaintiffs adopt and incorporate by reference herein paragraphs 1 through 71, above.

80. Defendants' actions repudiating the supplemental pension benefit contract have breached the Retired Firefighters' pension contract.

COUNT VI: EQUITABLE ESTOPPEL AND WAIVER

81. Plaintiffs adopt and incorporate by reference herein paragraphs 1 through 71, above.

82. Defendants are estopped from changing, reducing or eliminating the contractual supplemental pension benefit as the Retired Firefighters have detrimentally and justifiably relied on

Defendants' actions and representations that the supplemental pension benefit was part of their pension contract.

83. Through representations and actions described herein, the Defendants have waived any power to change, reduce or eliminate the Retired Firefighters' supplemental pension benefit.

84. Defendants are estopped by virtue of having entered into a contract with the Retired Firefighters and thereby have waived the right to make or force a conflicting contract.

REQUEST FOR RELIEF

85. The Retired Firefighters have a right to sue for enforcement and obtain a declaration of their rights under 28 U.S.C. §§ 2201 and 2202.

86. As a result of the foregoing, the Retired Firefighters need a declaration with regard to the enforceability of their rights to the supplemental pension benefit and the entry of an order specifically enforcing their contractual entitlement to the supplemental pension benefit and enjoining Defendants from using their powers to impair these contractual rights.

87. Plaintiffs are entitled to a make whole remedy including monetary damages, a declaratory judgment, permanent injunctive relief, attorney fees and costs, and such other relief as the Court deems appropriate.

REQUEST FOR JURY TRIAL

88. Plaintiffs request a trial by jury on all issues so triable.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court award to the Plaintiffs a make whole remedy, including monetary damages, declaratory relief, and permanent injunctive relief to enjoin and restrain Defendants from violating the pension contract. This request for relief includes, but is not limited to:

- A. That this Court take jurisdiction over the parties and subject matter of this action.
- B. That the Court find all actions, resolutions and ordinances of Defendants that are in violation of the contractual and property rights of the Retired Firefighters and any resulting actions to be void and of no effect.
- C. That the Court enjoin Defendants from any attempt to avoid the obligations of the supplemental pension benefit to which Retired Firefighters are contractually entitled.
- D. That the Court award the Retired Firefighters all monetary damages plus interest resulting from Defendants' unlawful actions.
- E. That the Court award Plaintiffs costs and attorney fees as provided under 42 U.S.C. § 1988; and common law doctrine for recovery of a common fund or substantial benefits.
- F. That the Court award the Plaintiffs such other relief as the Court shall deem just, proper and appropriate.

Respectfully submitted,

DONNELLY + GROSS

s/ Paul A. Donnelly

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EXHIBITS

1

**Employee
Organization
Agreement**

between

The City of Hollywood

and

**The Hollywood Professional
Fire Fighters,
Local #1375**

**October 1, 1999
through
September 30, 2002**

EMPLOYEE ORGANIZATION AGREEMENT

This Agreement is entered into by and between the City of Hollywood, Florida, hereinafter referred to as the "City" and the Hollywood Professional Fire Fighters, Inc., Local #1375, International Association of Firefighters, hereinafter referred to as the "Union". It is the intent and purpose of this Agreement to assure sound and mutually beneficial working and economic relationships between the parties hereto, to provide an orderly, prompt and peaceful means of resolving any misunderstandings or differences which may arise, and to set forth herein basic and full agreement between the parties concerning rates of pay wages, hours of employment, and other terms and conditions of employment. It is understood that the City of Hollywood is engaged in furnishing essential public services which vitally affect the health, safety, comfort and general well-being of the public, and both parties hereto recognize the need for continuous and reliable service to the public.

Within the context of this agreement, all uses of the terms "he, him, and his" shall be considered to be gender-neutral and freely interchangeable with the corresponding terms of "she, her, and hers."

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ARTICLE 1: RECOGNITION

Sec. 1: The City recognizes the Union as the exclusive Bargaining Agent for all employees in the Bargaining Unit with respect to wages, hours, and all other terms and conditions of employment.

Sec. 2: The Bargaining Unit shall include the positions as described in the job specifications as Firefighters, Driver Engineers, Lieutenants, Captains, Training Instructors, Training Officers, and Fire Prevention Officers I, II and III. The Bargaining Unit shall exclude all Battalion Chiefs (including the Deputy Fire Marshall), Division Chiefs, Deputy Chiefs, the Fire Chief, and civilian employees.

Sec. 3: (a) In the event that new positions are created within the City, that such positions satisfy the criteria specified in Section 3(b) below, and in the absence of any other specific agreement between the parties, the City and the Union agree to mutually petition the Public Employees Relations Commission to have said positions included in the Firefighter Bargaining Unit. If said petition is granted, the parties shall immediately begin impact bargaining to establish wages, hours, and working conditions for the new unit personnel.

(b) The criteria referenced in Section 3(a) above shall require that (1) the positions be created for certified firefighter, emergency medical technician, and/or paramedic personnel and that (2) a substantial portion of the corresponding job responsibilities be based upon, but not limited to, the delivery of emergency and/or non-emergency care, treatment, transportation, and/or medical supervision to private citizens. This provision shall not preclude the parties from mutually agreeing to include or exclude new positions

on a case-by-case basis nor shall it be construed as a waiver by either party of any other petitioning rights that may exist under applicable law.

(c) The parties agree that the above provisions shall only apply to newly created positions and shall not be applied to existing positions such as, but not limited to, marine safety officers and community service officers.

ARTICLE 28: PENSION PLAN

Sec. 1: The City and the Union acknowledge and agree that the following shall apply to all participants in the Hollywood Firefighters Pension System:

a) From 1976 to 1988, the City of Hollywood offered two separate pension plans to the members of the firefighters' bargaining unit: the (1) Prior Plan and the (2) Supplemental Plan;

b) Effective October 1, 1988, one (1) pension plan was created by merging the Supplemental Plan into the Prior Plan. Thereafter, the merged plan became known as the Hollywood Firefighters' Pension System;

c) The merged plan provides the following:

1. The same terms, conditions, definitions, and benefits that existed in the Prior Plan, except as specified herein;
2. All individuals shall have average final compensation defined as the average cash compensation of a firefighter during his highest three years of service; except that members previously in the Prior Plan only shall have included in the average final compensation accrued sick leave compensation earned and unused up to a maximum of 2200 hours;
3. Commencing three (3) years after the date retirement benefits begin, a retired member shall receive a two percent (2%) annual increase in retirement benefits. The provisions of this subsection shall only be applicable to members previously in the Supplemental System and any new hires.

4. Upon retirement, all members shall have the option of continuing under the City's health insurance plan under the same terms and conditions as if they were still an active employee, except that they shall pay for dependent coverage for eligible dependents;
5. A deferred retirement option plan, as described in Section 2 below;
6. The City shall maintain tax qualification of the Pension Plan under the provisions of Section 414 (H)(2) of the Internal Revenue Code;
7. The normal retirement benefit shall be payable to a covered employee after 25 years of service and regardless of age at retirement;
8. A three percent (3%) accrual rate for all members, up to a maximum benefit of eighty-one percent (81%); members will receive full credit for all years of service and will not have any benefits pro rated or otherwise reduced based on years of service under a lesser accrual rate;
9. A marriage requirement for post-retirement death benefit of two (2) years before retirement; this benefit shall also be applied to current DROP participants;
10. Payment of post-retirement death benefits provided that the member was married at least two (2) years prior to his death; this benefit shall also be applied to current DROP participants;
11. An annual increase of two-percent (2%) in spousal survival benefits.

Sec. 2: The deferred retirement option plan shall be as follows:

- (a) In lieu of terminating employment and accepting a service retirement allowance

under the existing provisions, any member of this system who has reached age fifty (50) or who has not less than twenty-five (25) years and not more than thirty (30) years of creditable service and who is eligible to receive a service retirement allowance may elect to participate in the deferred retirement option plan and defer the receipt of benefits in accordance with the provisions of this section;

(b) The election to participate in the plan shall be exercised prior to the attainment of thirty years of creditable service or such right of election shall be forfeited;

(c) The duration of participation in the plan shall be specified, and shall not exceed a number of years which when added to the number of years of all creditable service which the member has in the retirement system, exceeds a total of thirty-three (33) years. In any event, the total participation in the plan shall not exceed eight (8) years; and participation will end if the employee is terminated for just cause. These participation limits will apply to all current and future DROP participants but will have no retroactive benefit for members who have terminated their employment prior to October 1, 1999;

(d) A member may participate in the plan only once and after commencement in the plan he shall never have the right to be a contributing member of the retirement system again;

(e) Upon the effective date of the commencement of participation in the plan, membership in the pension system shall terminate and neither employee nor employer contributions shall be payable. For purposes of this section, compensation and creditable service shall remain as they existed on the effective date of commencement of participation in the plan. The monthly retirement benefits that would have been payable,

had the member elected to cease employment and receive a service retirement allowance, shall be paid into the deferred retirement option account. These deferred benefits shall earn interest as provided in subsection (f). Upon termination of employment, deferred benefits shall be payable as provided by subsection (h);

(f) On an annual basis, participants will have the option of directing some or all of their deferred benefits into an interest bearing account with an eight percent (8%) fixed rate of return. Any deferred benefits not directed into the fixed-rate account shall remain in a variable-rate account and shall earn interest at a rate set annually by the Board of Trustees. Such interest shall be weighted and credited on a pro-rata basis by the Board of Trustees to each individual account balance in the account on an annual basis;

(g) The deferred retirement option plan account shall not be subject to any fees, charges, etc., of any kind for any purpose;

(h) Upon termination of employment, a participant in the program shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon his account, or the participant may elect any other method of payment if approved by the Board of Trustees. The monthly benefits that were being paid into the fund during the period of participation shall begin being paid to the retiree;

(i) If a participant dies during the period of participation in the program, a lump sum payment equal to his account balance shall be paid to the participant's named beneficiary or, if none, to his estate; in addition, normal survivor benefits payable to the survivors of retirees shall be payable. If a participant terminates employment prior to the end of the

specified period of participation, he shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon the participant's account balance, or he may elect any other method of payment if approved by the Board of Trustees. The monthly benefits that were being paid into the fund during the period of participation shall begin being paid to the retiree.

(j) If employment is not terminated at the end of the period specified for participation, payments into the account shall cease and no further interest shall be earned or credited to the individual account in the fund for the duration of employment past the end of the period specified for participation. Payment from the account shall not be made until employment is terminated, nor shall the monthly benefits being paid into the fund during the period of participation be payable to the individual until he terminates employment. Upon termination of employment, a member shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus interest earned by the individual account, or a true annuity based upon the member's account balance, or he may elect any other method of payment if approved by the Board of Trustees.

(k) (1) If an employee becomes disabled after the period of participation in the plan but while still an employee and his employment is terminated because of said disability, the employee shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon his account balance, or the employee may elect any other method of payment if approved by the Board of Trustees. The monthly benefits that were paid into the fund during the

period of participation shall begin being paid to the retiree.

(2) If an employee dies after the period of participation in the plan but while still an employee, a lump sum payment equal to his account balance shall be paid to the employee's named beneficiary or, if none, to his estate; in addition, normal survivor benefits payable to survivors of retirees shall be payable.

Sec. 3: The pension benefits and changes set forth herein are conditioned upon the use by the actuary of an eight percent (8%) or better annual fund earnings assumption.

Sec. 4: Effective 10/1/99, the Board of Trustees shall be authorized to create and distribute an annual supplemental pension benefit which shall be payable first on September 30, 2000 and then every September 30th thereafter. The supplemental pension benefit shall be calculated, administered, and distributed as follows:

- a) The actuary for the pension fund shall determine the percentage rate of investment return on the pension fund assets during the twelve (12) month period ending each September 30th ("annual investment return"). The rate determined shall be the rate reported in the most recent actuarial report submitted pursuant to Part VII of Chapter 112 of the Florida Statutes.
- b) If the annual investment return exceeds the actuary's annual fund earnings assumption rate of eight percent (8%), then a supplemental pension distribution shall be made to eligible recipients. If the annual investment return equals or is less than the assumption rate, no supplemental pension distribution shall be made that year.
- c) The value of the supplemental pension benefit fund shall be equal to the

value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10.0%) and the annual fund earnings assumption rate (8%) to a maximum annual investment return value of up to two percent (2.0 %) as calculated on the retirees' portion of the pension fund's earnings.

d) Eligible recipients for supplemental pension benefit distribution shall be:

1. Current pension recipients who retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid;
2. Surviving spouses (or other beneficiaries) of deceased pension recipients who had retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.

e) The supplemental pension benefit fund shall be divided into equal shares, the number of which shall equal the aggregate number of eligible recipients. On an annual basis, one share shall be awarded and paid, when appropriate, to each eligible recipient.

Sec. 5: (a) Effective 10/1/99, Section 12.08(5)(a) of the pension plan shall be amended to read as follows:

(a) *Service-incurred disability benefit.* Until death or recovery from disability, whichever event shall first occur, the amount of such monthly disability benefits shall be equal to seventy-five percent (75%) of salary or wages of the fireman at the time of

final determination of disability.

(b) Effective 10/1/99, Section 12.08(5)(b) of the pension plan shall be amended to read as follows:

(b) *Non-service-incurred disability benefit.* Until normal retirement date, death or recovery from disability, whichever event shall first occur, the amount of such monthly disability benefit shall be equal to twenty-five percent (25%) of salary or wages of the fireman at the time of final determination of disability. Commencing with the normal retirement date, the benefit shall be computed as a service-incurred disability benefit, the amount of which shall be equal to seventy-five percent (75%) of salary or wages of the fireman at the time of final determination of disability.

ARTICLE 49: DURATION OF AGREEMENT

Sec. 1: This Agreement shall be effective on October 1, 1999 and shall remain in full force and effect until September 30, 2002.

Sec. 2: Specific provisions as to effective dates, found in any of the various articles of this Agreement, shall not be affected by the provisions of Section 1, above. In case of conflict, the specific Article provisions shall prevail.

Sec. 3: This Agreement shall automatically be renewed from year to year thereafter unless either party shall have notified the other, in writing, by January 1, 2002 that it desires to modify the Agreement with negotiations to begin thirty days thereafter or such other date as is mutually agreed upon. The terms and conditions of employment reflected in this Agreement shall remain in full force and effect until replaced by either (1) a subsequently ratified replacement agreement or (2) actions resulting from the provisions of F.S. 447.403.

Sec. 4: The parties acknowledge the obligations created by F.S. 447.309(2)(a) and agree to initiate immediate impact bargaining in the event that the City Commission fails to appropriate sufficient amounts to fund the provisions of this collective bargaining agreement.

EXECUTION OF AGREEMENT

THIS AGREEMENT, having been duly ratified by vote of the members of the Bargaining Unit covered hereunder, and the City Commission of the City of Hollywood, is hereby executed with the signatures affixed hereto.

DATED this 17th day of November, 1999.

WITNESSES:

[Signature]

As to Local 1375

**HOLLYWOOD PROFESSIONAL
FIRE FIGHTERS, LOCAL #1375,
INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS**

By: Russell R. Brand
President

Date: 1/12/00

WITNESSES:

James Carnicella

As to the City

**CITY OF HOLLYWOOD, a municipal
corporation of the State of Florida**

By: Mara Giubanti
Mayor

Attest: Patricia A. Cerny
City Clerk

Approved: [Signature]
City Manager

Approved: [Signature]
Finance Director

Approved: James Carnicella
Director of Human Resources

APPROVED AS TO FORM:

City Attorney

**APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF HOLLYWOOD, FLORIDA, ONLY.**

[Signature]
DANIEL L. ABBOTT
CITY ATTORNEY

2a

PO-2004-24

ORDINANCE NO. O-2004-25

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, REPEALING ARTICLE XII OF THE CITY CHARTER RELATING TO THE FIREFIGHTER'S PENSION SYSTEM; ADOPTING A NEW ARTICLE XII OF THE CITY CHARTER; INCORPORATING THE PROVISIONS RELATING TO THE FIREFIGHTERS' PENSION PLAN CONTAINED IN THE SEVERAL COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND HOLLYWOOD PROFESSIONAL FIRE FIGHTERS, LOCAL #1375; INCORPORATING REQUIREMENTS OF FEDERAL AND STATE LAW; RESTATING THE REMAINING PROVISIONS OF THE FIREFIGHTERS' PENSION SYSTEM.

WHEREAS, the City of Hollywood, Florida, firefighters pension plan (the "Plan") is contained in Article XII of the City Charter; and

WHEREAS, prior to 2003, amendments to the Plan contained in the last several collective bargaining agreements between the City and Hollywood Professional Fire Fighters, Inc., Local #1375, International Association of Firefighters had not been incorporated into Article XII of the City Charter; and

WHEREAS, contrary to prior collective bargaining agreements, the current collective bargaining agreement (10/1/02 - 9/30/05) contains a provision that makes the amendments to the Plan contained therein subject to the adoption by the City Commission of an ordinance amending Article XII of the City Charter and approval by a majority of the voting members of the Plan; and

WHEREAS, prior to 2003, a number of requirements of federal and state law applicable to the Plan had not been incorporated into Article XII of the City Charter; and

WHEREAS, on July 2, 2003, the City Commission approved Ordinance No. O-2003-20 on first reading, and on July 16, 2003, the City Commission approved Ordinance No. O-2003-20 on second and final reading, with both votes being unanimous votes of the full City Commission; and

WHEREAS, Ordinance No. O-2003-20 would have incorporated all of the amendments contained in prior collective bargaining agreements and the requirements of federal and state law; and

WHEREAS, Section 12.23 of the City Charter provides that the Plan may be amended upon approval by a "majority plus one" vote of the City Commission and 50 percent plus one of the voting members of the Plan; and

WHEREAS, although Ordinance No. O-2003-20 was approved by the City Commission in accordance with the requirements of Section 12.23 of the City Charter, it has not been approved by the members of the Plan as required by Section 12.23 and, therefore, has not gone into effect; and

WHEREAS, on July 2, 2003, the City Commission rejected a second ordinance that would have implemented benefit amendments to the Plan contained in the current collective bargaining agreement; and

WHEREAS, the City and the Hollywood Professional Firefighters, Local #1375, have agreed to amend the current collective bargaining agreement as it relates to the Plan; and

WHEREAS, this ordinance will both (i) accomplish everything that Ordinance No. O-2003-20 would have accomplished and (ii) implement the amendments to the Plan contained in the current collective bargaining agreement, as amended;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1. That Article XII of the City Charter is hereby repealed and a new Article XII of the City Charter is hereby adopted to read as set forth in the attached document, comprised of 36 pages, which is incorporated by reference as if fully set forth herein.

Section 2: That all sections or parts of sections of the City Charter, the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

Section 3: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining portions of this ordinance.

Section 4: That this ordinance shall be in full force and effect immediately upon receipt by the City Clerk of written notice of approval, by 50 percent plus one of the voting members of the Firefighters' Pension Fund, of the amendments contained in Section 1 hereof.

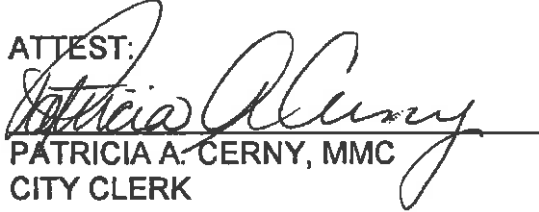
ORDINANCE – FIREFIGHTERS PENSION SYSTEM 2004

ADVERTISED on Sept 24, 2004.

PASSED on first reading this 29 day of Sept, 2004.

Oct PASSED AND ADOPTED on second reading this 5 day of
2004.


MARA GIULIANTI, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida, only.


DANIEL L. ABBOTT, CITY ATTORNEY

10/13/04pac

ARTICLE XII. FIREFIGHTERS' PENSIONS AND RETIREMENT

Sec. 12.01. Definitions.

As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated:

"Accumulated Contributions" means a Member's own contributions without interest. For those Members who purchase Credited Service with interest or at no cost to the System, any payment representing the amount attributable to Member contributions based on the applicable Member contribution rate, and any payment representing interest and any required actuarially calculated payments for the purchase of such Credited Service, shall be included in Accumulated Contributions.

"Actuarial Equivalent" means a benefit or amount of equal value, based upon the 1983 Group Annuity Mortality Table and an interest rate of eight percent (8%) per annum, sex distinct.

"Average Final Compensation" means one-twelfth (1/12) of the average cash Compensation of the three (3) highest years of Credited Service prior to Retirement, termination, or death, or the career average as a full-time Firefighter, whichever is greater. A year shall be twelve (12) consecutive months.

"Beneficiary" means the person or persons entitled to receive benefits hereunder at the death of a Member who has or have been designated in writing by the Member and filed with the Board. If no such designation is in effect, or if no person so designated is living, at the time of death of the Member, the Beneficiary shall be the estate of the Member.

"Board" means the Board of Trustees, which shall administer and manage the System herein provided and serve as trustees of the Fund.

"City" means the City of Hollywood, Florida.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Compensation" means the total monthly remuneration for services rendered to the City as a Firefighter, including accrued sick leave compensation up to twenty-two hundred (2200) hours for those Firefighters in the Charter Pension System; provided however, that those Members whose pensions were merged into the Charter Pension System from the Supplemental Retirement System and those Members whose employment by the City as Firefighters commenced subsequent to the merger of the Supplemental Retirement System into the Charter Pension System shall not have their sick leave compensation included in Compensation. Effective October 1, 2004, Compensation for all Members shall

include all wages, overtime, workers' compensation/supplemental compensation, expense allowances, cash conversion of holiday benefits, all earned and unused annual leave, compensatory time, blood time and Educational Incentive Payment from the Insurance Commissioner's Trust Fund. Compensation in excess of the limitations set forth in Section 401(a)(17) of the Code shall be disregarded. The limitation on compensation for an "eligible employee" shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. "Eligible employee" is an individual who was a Member before the first Plan Year beginning after December 31, 1995.

"Credited Service" means the total number of years and fractional parts of years of service (computed in quarters with one (1) to three (3) months being one-quarter of a year, more than three (3) but not more than six (6) months being one-half of a year, more than six (6) but not more than nine (9) months being three-quarters of a year, and more than nine (9) but not more than twelve (12) months being one (1) year) as a Firefighter with Member contributions, when required, omitting intervening years or fractional parts of years when such Member was not employed by the City as a Firefighter. A Member may voluntarily leave his or her Accumulated Contributions in the Fund for a period of five (5) years after leaving the employ of the Fire Department pending the possibility of being reemployed as a Firefighter, without losing credit for the time that he or she was a Member of the System. If a vested Member leaves the employ of the Fire Department, his or her Accumulated Contributions will be returned only upon his or her written request. If a Member who is not vested is not reemployed as a Firefighter with the Fire Department within five (5) years, his or her Accumulated Contributions shall be returned. Upon return of a Member's Accumulated Contributions, all of his or her rights and benefits under the System are forfeited and terminated. Upon any reemployment, a Firefighter shall not receive credit for the years and fractional parts of years of service for which he or she has withdrawn his or her Accumulated Contributions from the Fund, unless the Firefighter repays into the Fund the contributions he or she has withdrawn, with interest, as determined by the Board, within six (6) months after his or her reemployment.

The years or fractional parts of a year that a Member serves in the military service of the Armed Forces of the United States, the United States Merchant Marine or the United States Coast Guard, voluntarily or involuntarily, after separation from employment as a Firefighter with the City to perform training or service, shall be added to his or her years of Credited Service for all purposes, including vesting, provided that:

1. The Member must return to his or her employment as a Firefighter within one (1) year from the earlier of the date of his or her military discharge or his or her release from active service.
2. The Member is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA), (P.L.103-353).
3. The maximum credit for military service pursuant to this paragraph shall be five (5) years.

"Deferred Retirement Option Plan" or "DROP" means that certain plan described in Section 12.27 below.

"Effective Date" means October 1, 1988.

"Firefighter" means an actively employed full-time person employed by the City, including his or her initial probationary employment period, who is certified as a Firefighter as a condition of employment in accordance with the provisions of §633.35, Florida Statutes, and whose duty it is to extinguish fires, to protect life and to protect property.

"Fund" means the trust fund established herein as part of the System.

"Member" means a Firefighter who fulfills the prescribed membership requirements. Benefit improvements which, in the past, have been provided for by amendments to the System adopted by City ordinance, and any benefit improvements which might be made in the future shall apply prospectively and shall not apply to Members who terminate employment or who retire prior to the effective date of any ordinance adopting such benefit improvements, except as provided in Section 12.06, subsection 5, or unless such ordinance specifically provides to the contrary.

"Plan Year" means the twelve (12) month period beginning October 1 and ending September 30 of the following year.

"Retiree" means a former Member who has entered Retirement status.

"Retirement" means a Member's separation from City employment with eligibility for immediate receipt of benefits under the System.

"System" means the City of Hollywood Firefighters' Pension System as contained herein and all amendments thereto.

Sec. 12.02. Membership.

Conditions of Eligibility.

All Firefighters as of the Effective Date, and all Firefighters employed subsequent to the Effective Date, shall be Members of this System as a condition of employment. Effective October 1, 2004, all Members who were employed by the City as Firefighters on or before May 1, 1977 shall remain as previous members of the Charter Pension System, as opposed to the Supplemental Retirement System, and shall receive all related rights and benefits. However, such Members shall not obtain the benefits of both the Charter Pension Plan and the Supplemental Retirement System.

Sec. 12.03. Board of Trustees.

1. The sole and exclusive administration of and responsibility for the proper operation of the System and for making effective the provisions of this ordinance is hereby vested in a Board of Trustees. The Board is hereby designated as the plan administrator. The Board shall consist of five (5) Trustees, one (1) of whom shall be the Chief of the Fire Department, one (1) of whom, unless otherwise prohibited by law, shall be appointed by the Hollywood City Commission, and three (3) of whom shall be regularly employed Firefighters, who shall be elected by a majority of the regularly employed Firefighters. The City Commission appointed Trustee shall serve as Trustee for a period of two (2) years, unless he or she sooner vacates the office or is sooner replaced by the Hollywood City Commission at whose pleasure he or she shall serve. The Chief of the Fire Department shall serve as long as he or she shall continue to hold office as Chief and upon a vacancy in the office of Chief, his or her respective successor shall succeed to the position of Trustee. Each Member Trustee shall serve as Trustee for a period of three (3) years, unless he or she sooner leaves the employment of the City as a Firefighter or otherwise vacates his or her office as Trustee, whereupon a successor shall be chosen in the same manner as the departing Trustee. Each Trustee may succeed himself in office. The Board shall establish and administer the nominating and election procedures for each election. The Board shall meet at least quarterly each year. The Board shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

2. The City Commission appointed Trustee shall serve as Chairman of the Board. The Trustees shall, by a majority vote, elect a Secretary. The Secretary of the Board shall keep a complete minute book of the actions, proceedings, or hearings of the Board. The Trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

3. Each Trustee shall be entitled to one (1) vote on the Board. Three (3) affirmative votes shall be necessary for any decision by the Trustees at any meeting of the Board.

4. The Board shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the System. The compensation of all persons engaged by the Board and all other expenses of the Board necessary for the operation of the System shall be paid from the Fund at such rates and in such amounts as the Board shall agree. In the event the Board chooses to use the City's legal counsel, actuary or other professional, technical or other advisors, it shall do so only under terms and conditions acceptable to the Board.

5. The duties and responsibilities of the Board shall include, but not necessarily be limited to, the following:

- A. To construe the provisions of the System and determine all questions arising thereunder.
- B. To determine all questions relating to eligibility and membership.
- C. To determine and certify the amount of all retirement allowances or other benefits hereunder.
- D. To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the System.
- E. To distribute to Members, at regular intervals, information concerning the System.
- F. To receive and process all applications for benefits.
- G. To authorize all payments whatsoever from the Fund, and to notify the disbursing agent, in writing, of approved benefit payments and other expenditures arising through operation of the System and Fund.
- H. To have performed actuarial studies and valuations, at least as often as required by law, and make recommendations regarding any and all changes in the provisions of the System.
- I. To perform such other duties as are required to prudently administer the System.

Nothing herein shall empower the board to amend the provisions of the System without the approval of the City Commission.

Sec. 12.04. Finances and fund management.

Establishment and Operation of Fund.

1. As part of the System, there is hereby established the Fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the System, including the assets of the prior firefighters' pension systems of the City.
2. The actual custody and supervision of the Fund (and assets thereof) shall be vested in the Board. Payment of benefits and disbursements from the Fund shall be made by the disbursing agent but only upon written authorization from the Board.

3. All funds of the Firefighters' Pension System may be deposited by the Board with the treasurer of the City, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent as he or she is liable for the safekeeping of funds for the City. However, any funds so deposited with the treasurer of the City shall be kept in a separate fund by the treasurer or clearly identified as such funds of the System. In lieu thereof, the Board shall deposit the funds of the System in a qualified public depository as defined in §280.02, Florida Statutes, which depository with regard to such funds shall conform to and be bound by all of the provisions of Chapter 280, Florida Statutes. In order to fulfill its investment responsibilities as set forth herein, the Board may retain the services of a custodian bank, an investment consultant, one or more investment advisors (investment managers) registered under the Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment advisor(s) shall have discretion, subject to the provisions of subsection 12.04.6 below, in the investment of all Fund assets.

4. All funds and securities of the System may be commingled in the Fund, provided that accurate records are maintained at all times reflecting the financial composition of the Fund, including accurate current accounts and entries as regards the following:

- A. Current amounts of Accumulated Contributions of Members on both an individual and aggregate account basis, and
- B. Receipts and disbursements, and
- C. Benefit payments, and
- D. Current amounts clearly reflecting all monies, funds and assets whatsoever attributable to contributions and deposits from the City, and
- E. All interest, dividends and gains (or losses) whatsoever, and
- F. Such other entries as may be properly required so as to reflect a clear and complete financial report of the Fund.

5. An audit shall be performed annually by a certified public accountant for the most recent fiscal year of the System showing a detailed listing of assets and a statement of all income and disbursements during the year. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such report shall reflect a complete evaluation of assets on both a cost and market basis, as well as other items normally included in a certified audit.

6. The Board shall have the following investment powers and authority:

A. The Board shall be vested with full legal title to said Fund, subject, however, and in any event to the authority and power of the Hollywood City Commission to amend or terminate this Fund, provided that no amendment or Fund termination shall ever result in the use of any assets of this Fund except for the payment of regular expenses and benefits under this System, except as otherwise provided herein. All contributions from time to time paid into the Fund, and the income thereof, without distinction between principal and income, shall be held and administered by the Board or its agent in the Fund and the Board shall not be required to segregate or invest separately any portion of the Fund.

B. The Board shall have exclusive charge of the investment of any assets in the Fund not needed for the Fund's current obligations, and may invest such assets in accordance with the written investment policy adopted by the Board pursuant to subsection C below. Board members must discharge their duties with respect to the System solely in the interest of the participants and beneficiaries and (i) for the exclusive purpose of providing benefits to participants and their beneficiaries, and defraying reasonable expenses of administering the System; (ii) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and (iii) by diversifying the investments of the System so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

C. The Board shall adopt and periodically update a written investment policy in accordance with Section 112.661, Florida Statutes, as such statute may be amended in the future. Within the limitations of the foregoing standards and investment policy, the Board is authorized to acquire and retain in the Fund every kind of investment, specifically including, but not limited to, stocks, bonds, securities, debentures, real estate, mutual funds, trusts, and other obligations which persons of prudence, discretion and intelligence acquire or retain for their own account.

D. The intent of this subsection is to exclude any and all restrictions on investments otherwise imposed by Chapter 15, Florida Statutes, but only if this subsection, with the exclusion of such restrictions, is in compliance with the provisions of Chapter 175. If this subsection, with the exclusion of the restrictions imposed by Chapter 175, is deemed not to be in compliance with Chapter 175, then such restrictions shall be incorporated herein in their entirety.

E. In carrying out its investment duties, the Board shall engage such custodial, investment management, and other professional consultants as the Board deems necessary and prudent.

F. At least once every three (3) years, and more often as determined by the Board, the Board shall retain a professionally qualified independent consultant, as defined in Section 175.071, Florida Statutes, to evaluate the performance of all current

investment managers and make recommendations regarding the retention of all such investment managers. These recommendations shall be considered by the Board at its next regularly scheduled meeting.

G. The Board may retain in cash and keep unproductive of income such amount of the Fund as it may deem advisable, having regard for the cash requirements of the System.

H. The Board may cause any investment in securities held by it to be registered in or transferred into its name as Trustee or into the name of such nominee as it may direct, or it may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the Fund.

I. The Board is empowered, but is not required, to vote upon any stocks, bonds, or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalizations, consolidations, and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the Trustees or with depositories designated thereby; to amortize or fail to amortize any part or all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the Fund which it may deem to be to the best interest of the Fund to exercise.

J. The Board shall not be required to make any inventory or appraisal or report to any court, nor to secure any order of court for the exercise of any power contained herein.

K. Where any action which the Board is required to take or any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as Trustee under this ordinance, can reasonably be taken or performed only after receipt by it from a Member, the City, or any other entity, of specific information, certification, direction or instructions, the Board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.

L. Any overpayments or underpayments from the Fund to a Member, Retiree or Beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the Board in such a manner that the Actuarial Equivalent of the benefit to which the Member, Retiree or Beneficiary was correctly entitled, shall be paid. Overpayments shall be charged against payments next succeeding the correction or collected in another manner if prudent. Underpayments shall be made up from the Fund in a prudent manner.

M. The Board shall sustain no liability whatsoever for the sufficiency of the Fund to meet the payments and benefits provided for herein.

N. In any application to or proceeding or action in the courts, only the Board shall be a necessary party, and no Member or other person having an interest in the Fund who is not a party to the proceeding shall be entitled to any notice or service of process. Any judgment entered in such a proceeding or action shall be conclusive upon all persons.

O. Any of the foregoing powers and functions reposed in the Board may be performed or carried out by the Board through duly authorized agents, provided that the Board at all times maintains continuous supervision over the acts of any such agent; provided further, that legal title to said Fund shall always remain in the Board.

Sec. 12.05. Contributions.

1. Member Contributions.

A. Amount. Each Member of the System shall be required to make regular contributions to the Fund in the amount of seven percent (7%) of his or her Compensation. Effective October 1, 2004, each Member of the System shall be required to make regular contributions to the Fund in the amount of eight percent (8%) of his or her Compensation. Member contributions picked up by the City on behalf of the Member shall be deposited with the Board immediately after each pay period. The contributions made by each Member to the Fund shall be designated as employer contributions pursuant to §414(h) of the Code. Such designation is contingent upon the contributions being excluded from the Members' gross income for Federal Income Tax purposes. For all other purposes of the System, such contributions shall be considered to be Member contributions.

B. Method. Such contributions shall be made by payroll deduction.

2. State Contributions.

Any monies received or receivable by reason of laws of the State of Florida, for the express purpose of funding and paying for retirement benefits for Firefighters of the City shall be deposited in the Fund comprising part of this System immediately and under no circumstances more than five (5) days after receipt by the City.

3. City Contributions.

So long as this System is in effect, the City shall make quarterly contributions to the Fund in an amount equal to the difference in each year, between the total aggregate Member contributions for the year, plus state contributions for such year, and the total cost

for the year, as shown by the most recent actuarial valuation of the System. The total cost for any year shall be defined as the total normal cost plus the additional amount sufficient to amortize the unfunded past service liability as provided in Part VII of Chapter 112, Florida Statutes.

Sec. 12.06. Benefit amounts and eligibility.

1. Normal Retirement Date.

A Member's normal retirement date shall be the first day of the month coincident with or next following the attainment of age fifty (50) and the completion of ten (10) years of Credited Service or upon the completion of twenty-five (25) years of Credited Service, regardless of age. Effective October 1, 2004, a Member's normal retirement date shall be the first day of the month coincident with or next following the attainment of age fifty (50) and the completion of ten (10) years of Credited Service or upon the completion of twenty-three (23) years of Credited Service, regardless of age. A Member may retire on his or her normal Retirement date or on the first day of any month thereafter, and each Member shall become one hundred percent (100%) vested in his or her accrued benefit upon completion of ten (10) years of Credited Service. Normal Retirement under the System is Retirement from employment with the City on or after the normal Retirement date.

2. Normal Retirement Benefit.

A Member (including a DROP participant) retiring hereunder on or after his or her normal Retirement date shall receive a monthly benefit which shall commence on the first day of the month coincident with or next following his or her Retirement and be continued thereafter during such Member's lifetime, with one hundred twenty (120) payments guaranteed in any event. If such Member dies after retirement and has been married continuously for at least two years prior to his or her death, payment of one-half ($\frac{1}{2}$) of the benefit payment at the time of his or her death shall continue to his or her surviving spouse to the earlier of such spouse's death or remarriage. The monthly retirement benefit shall equal three percent (3%) of Average Final Compensation for each year of Credited Service, up to a maximum benefit of eighty-one percent (81%). Effective October 1, 2004 for all Members actively employed on or after October 1, 2002, the monthly retirement benefit shall equal three and three-tenths percent (3.3%) of Average Final Compensation for each year of Credited Service, up to a maximum benefit of eighty-six percent (86%), and Members will receive full credit for all years of service and will not have any benefits pro-rated or otherwise reduced based on years of service under a lesser rate. In any event, such Member's benefit shall equal at least two percent (2%) of Average Final Compensation for each year of Credited Service averaged over the entire period of Credited Service of the Member.

3. Cost of Living Adjustments for Retirees.

The pension benefit payable to all normal service Retirees shall be increased beginning three (3) years after the Retiree's Retirement date, and each year thereafter, by an amount equal to two percent (2%). The provisions of this subsection A. shall only be applicable to members previously in the Supplemental Firefighter's Retirement System and any Firefighters hired after October 1, 1988.

4. Cost-of-Living Adjustment for Spousal Survival Benefits.

The benefit payable to the surviving spouse of any Member or Retiree pursuant to subsection 2 of this Section or Section 12.07 shall be increased by an amount equal to two percent (2%) per year.

5. Recalculation of Retirement Benefits for Retirees.

Effective October 1, 2004, all Retirees who retired or entered into the DROP on or after October 1, 2002 will have their monthly retirement benefit recalculated and paid at the full three and three-tenths percent (3.3%) per year accrual rate up to a maximum of eighty-six percent (86%). There shall be no retroactive payment for time spent in retirement or the DROP prior to October 1, 2004.

6. Increase in Benefits.

Any increase in benefits resulting by reason of any amendment to this plan shall apply to Retirees at the time of any such amendment only to the extent of increasing their respective retirement benefits by an amount equal to fifty percent (50%) of such increase.

Sec. 12.07. Pre-Retirement death.

1. Benefits for Death In-Line of Duty.

A. **Ten (10) or More Years of Credited Service.** If any Member having at least ten (10) years of Credited Service shall lose his or her life prior to Retirement as a direct result of the performance of his or her duties, his or her surviving spouse shall have the option of receiving, for life, either a monthly benefit equal to fifty percent (50%) of the Member's Compensation at the time of his or her death or the benefits otherwise payable to the Member at the Member's normal Retirement date. If any Member having at least ten (10) years of Credited Service shall lose his or her life prior to Retirement as a direct result of the performance of his or her duties and there is no surviving spouse, his or her Beneficiary shall have the option of receiving, until death, either a monthly benefit equal to fifty percent (50%) of the Member's Compensation at the time of his or her death or the benefits otherwise payable to the Member at the Member's normal Retirement date.

B. **Less than Ten (10) Years of Credited Service.** If any Member having less than ten (10) years of Credited Service shall lose his or her life prior to Retirement as a direct result of the performance of his or her duties, his or her surviving spouse shall receive, for life, a monthly benefit equal to fifty percent (50%) of the Member's Compensation at the time of his or her death. If any Member having less than ten (10) years of Credited Service shall lose his or her life prior to Retirement as a direct result of the performance of his or her duties and there is no surviving spouse, his or her Beneficiary shall receive, until death, a monthly benefit equal to fifty percent (50%) of the Member's Compensation at the time of his or her death.

2. **Benefits for Death Not in Line of Duty.**

If any Member with five (5) or more years of Credited Service, prior to Retirement, shall die from a condition that was not directly caused by the performance of his or her duties, his or her surviving spouse shall receive, until the earlier of the death or remarriage of such surviving spouse, a monthly benefit equal to twenty-five percent (25%) of the Member's Compensation at the time of his or her death.

3. **Minimum Benefit.**

Notwithstanding anything contained in subsections 1 and 2 to the contrary, if a Member dies before being eligible for Retirement or if payments provided for in subsections 1 and 2 above cease prior to the time when the surviving spouse or Beneficiary has received an amount equal to the Member's Accumulated Contributions, the Member's Beneficiary shall receive the Accumulated Contributions or the balance thereof. In no event shall the benefits provided in this Section be less than the Member's vested accrued benefit payable at the Member's normal Retirement date.

Sec. 12.08. Disability.

1. **Disability Benefits In-Line of Duty.**

Any Member who shall become totally and permanently disabled to the extent that he or she is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, which disability was directly caused by the performance of his or her duty as a Firefighter, shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to seventy-five percent (75%) of his or her Compensation at the time of determination of disability. Terminated persons, either vested or non-vested, are not eligible for disability benefits, except that those terminated by the City for medical reasons may apply for a disability within thirty (30) days after termination.

2. **In-Line of Duty Presumptions.**

A. **Presumption.** Any condition or impairment of health of a Member caused by hypertension or heart disease shall be presumed to have been suffered in the line of duty unless the contrary is shown by competent evidence, provided that such Member shall have successfully passed a physical examination upon entering into such service, which examination failed to reveal any evidence of such condition; and provided further, that such presumption shall not apply to benefits payable or granted in a policy of life insurance or disability insurance.

B. **Additional Presumption.** The presumption provided for in this paragraph B shall apply only to those conditions described in this paragraph B that are diagnosed on or after January 1, 1996.

(1) **Definitions.** As used in this subsection 2.B., the following definitions apply:

(a) "Body fluids" means blood and body fluids containing visible blood and other body fluids to which universal precautions for prevention of occupational transmission of blood-borne pathogens, as established by the Centers for Disease Control, apply. For purposes of potential transmission of meningococcal meningitis or tuberculosis, the term "body fluids" includes respiratory, salivary, and sinus fluids, including droplets, sputum, and saliva, mucous, and other fluids through which infectious airborne organisms can be transmitted between persons.

(b) "Emergency rescue or public safety Member" means any Member employed full time by the City as a Firefighter, paramedic, or emergency medical technician who, in the course of employment, runs a high risk of occupational exposure to hepatitis, meningococcal meningitis, or tuberculosis and who is not employed elsewhere in a similar capacity.

(c) "Hepatitis" means hepatitis A, hepatitis B, hepatitis non-A, hepatitis non-B, hepatitis C, or any other strain of hepatitis generally recognized by the medical community.

(d) "High risk of occupational exposure" means that risk that is incurred because a person subject to the provisions of this subsection, in performing the basic duties associated with his or her employment:

i. Provides emergency medical treatment in a non-health-care setting where there is a potential for transfer of body fluids between persons; or

ii. At the site of an accident, fire, or other rescue or public safety operation, or in an emergency rescue or public safety vehicle, handles body

fluids in or out of containers or works with or otherwise handles needles or other sharp instruments exposed to body fluids;

(e) "Occupational exposure," in the case of hepatitis, meningococcal meningitis, or tuberculosis, means an exposure that occurs during the performance of job duties that may place a worker at risk of infection.

(2) Presumption. Any emergency rescue or public safety Member who suffers a condition or impairment of health that is caused by hepatitis, meningococcal meningitis, or tuberculosis, that requires medical treatment, and that results in total or partial disability or death shall be presumed to have a disability suffered in the line of duty, unless the contrary is shown by competent evidence; however, in order to be entitled to the presumption, the emergency rescue or public safety Member must, by written affidavit as provided in Section 92.50, Florida Statutes, verify by written declaration that, to the best of his or her knowledge and belief:

(a) In the case of a medical condition caused by or derived from hepatitis, he or she has not:

i. Been exposed, through transfer of bodily fluids, to any person known to have sickness or medical conditions derived from hepatitis, outside the scope of his or her employment;

ii. Had a transfusion of blood or blood components, other than a transfusion arising out of an accident or injury happening in connection with his or her present employment, or received any blood products for the treatment of a coagulation disorder since last undergoing medical tests for hepatitis, which tests failed to indicate the presence of hepatitis;

iii. Engaged in unsafe sexual practices or other high-risk behavior, as identified by the Centers for Disease Control or the Surgeon General of the United States, or had sexual relations with a person known to him or her to have engaged in such unsafe sexual practices or other high-risk behavior; or

iv. Used intravenous drugs not prescribed by a physician.

(b) In the case of meningococcal meningitis, in the ten (10) days immediately preceding diagnosis he or she was not exposed, outside the scope of his or her employment, to any person known to have meningococcal meningitis or known to be an asymptomatic carrier of the disease.

(c) In the case of tuberculosis, in the period of time since the Member's last negative tuberculosis skin test, he or she has not been exposed, outside

the scope of his or her employment, to any person known by him or her to have tuberculosis.

(3) Immunization. Whenever any standard, medically recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is granted under this Section, if medically indicated in the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the U.S. Public Health Service, an emergency rescue or public safety Member may be required by the City to undergo the immunization or prophylaxis unless the Member's physician determines in writing that the immunization or other prophylaxis would pose a significant risk to the Member's health. Absent such written declaration, failure or refusal by an emergency rescue or public safety Member to undergo such immunization or prophylaxis disqualifies the Member from the benefits of the presumption.

(4) Record of Exposures. The City shall maintain a record of any known or reasonably suspected exposure of an emergency rescue or public safety Member in its employ to the diseases described in this Section and shall immediately notify the Member of such exposure. An emergency rescue or public safety Member shall file an incident or accident report with the City of each instance of known or suspected occupational exposure to hepatitis infection, meningococcal meningitis, or tuberculosis.

(5) Required medical tests; preemployment physical. In order to be entitled to the presumption provided by this Section:

(a) An emergency rescue or public safety Member must, prior to diagnosis, have undergone standard, medically acceptable tests for evidence of the communicable disease for which the presumption is sought, or evidence of medical conditions derived therefrom, which tests fail to indicate the presence of infection. This paragraph does not apply in the case of meningococcal meningitis.

(b) On or after June 15, 1995, an emergency rescue or public safety Member may be required to undergo a preemployment physical examination that tests for and fails to reveal any evidence of hepatitis or tuberculosis.

3. Disability Benefits Not-in-Line of Duty.

Any Member with five (5) years or more Credited Service who shall become totally and permanently disabled to the extent that he or she is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Firefighter, which disability is not directly caused by the performance of his or her duties as a Firefighter shall, upon establishing the same to the satisfaction of the Board, be entitled to a monthly pension equal to twenty-five percent (25%) of his or her Compensation at the time of final determination of disability. Commencing with normal retirement date, the benefit shall be equal to seventy-five percent (75%) of his or her

Compensation at the time of final determination of disability. Terminated persons, either vested or non-vested, are not eligible for disability benefits, except that those terminated by the City for medical reasons may apply for a disability within thirty (30) days after termination.

4. Conditions Disqualifying Disability Benefits.

Each Member who is claiming disability benefits shall establish, to the satisfaction of the Board, that such disability was not occasioned primarily by:

- A. Excessive or habitual use of any drugs, intoxicants or narcotics.
- B. Injury or disease sustained while willfully and illegally participating in fights, riots or civil insurrections or while committing a crime.
- C. Injury or disease sustained while serving in any branch of the Armed Forces.
- D. Injury or disease sustained by the Member after his or her employment as a Firefighter with the City of Hollywood shall have terminated.

5. Physical Examination Requirement.

A Member shall not become eligible for disability benefits until and unless he or she undergoes a physical examination by one or more qualified physicians, surgeons, and/or psychologists who shall be selected by the Board for that purpose. The Board shall not select the Member's treating physician or surgeon for this purpose except in an unusual case where the Board determines that it would be reasonable and prudent to do so.

Any Retiree receiving disability benefits under provisions of this ordinance may be required by the Board to submit sworn statements of his or her condition accompanied by a physician's statement to the Board annually and may be required by the Board to undergo additional periodic re-examinations by a qualified physician or physicians and/or surgeon or surgeons who shall be selected by the Board, to determine if such disability has ceased to exist. If the Board finds that the Retiree is no longer permanently and totally disabled to the extent that he or she is unable to render useful and efficient service as a Firefighter, the Board shall recommend to the City that the Retiree be returned to performance of duty as a Firefighter, and the Retiree so returned shall enjoy the same rights that he or she had at the time he or she was placed upon pension. In the event the Retiree so ordered to return shall refuse to comply with the order within thirty (30) days from the issuance thereof, he or she shall forfeit the right to his or her pension.

If the Retiree recovers from disability and reenters the service of the City as a Firefighter, his or her service will be deemed to have been continuous, and the period

beginning with the first month for which he or she received a disability retirement income payment and ending with the date he or she reentered the service of the City will be considered as Credited Service for the purposes of the System.

The Board shall have the power and authority to make the final decisions regarding all disability claims.

6. Disability Payments.

The monthly benefit to which a Member is entitled in the event of the Member's disability Retirement shall be payable on the first day of the first month after the Board determines the Member became disabled. However, the monthly retirement income shall be payable as of the date the Board determined such entitlement, and any portion due for a partial month shall be paid together with the first payment. The last payment will be:

A. If the Retiree recovers from the disability prior to his or her normal Retirement date, the payment due next preceding the date of such recovery, or

B. If the Retiree dies without recovering from the disability or attains his or her normal Retirement date while still disabled, the payment due next preceding his or her death or the 120th monthly payment, whichever is later.

Provided, however, the disability Retiree may select, at any time prior to the date on which benefit payments begin, an optional form of benefit payment as described in Section 12.10, subsection 1.B., which shall be the Actuarial Equivalent of the normal form of benefit.

7. Workers' Compensation.

Any amounts which may be paid or payable under the provisions of any workers' compensation, pension or similar law, either to a Firefighter or to the dependents of a Firefighter on account of any disability, shall be offset against and payable in lieu of any benefits payable under the provisions hereof on account of the same disability to the extent permitted by law, and only such reduced benefits shall be payable hereunder.

Sec. 12.09. Vesting.

If a Member terminates his or her employment as a Firefighter, either voluntarily or by discharge, and is not eligible for any other benefits under this System, the Member shall be entitled to the following:

1. If the Member has less than ten (10) years Credited Service upon termination, the Member shall be entitled to a refund of his or her Accumulated Contributions or the Member may leave them deposited with the Fund.

2. If the Member has ten (10) or more years of Credited Service upon termination, the Member shall be entitled to a monthly retirement benefit, determined in the same manner as for normal Retirement and based upon the Member's Credited Service, Average Final Compensation and the benefit accrual rate as of the date of termination, payable to him or her commencing at the Member's otherwise normal Retirement date, determined based upon his or her actual years of Credited Service, provided he or she does not elect to withdraw his or her Accumulated Contributions and provided the Member survives to his or her otherwise normal Retirement date. If the Member does not withdraw his or her Accumulated Contributions and does not survive to his or her otherwise normal Retirement date, his or her designated Beneficiary shall be entitled to a benefit as provided herein for a deceased Member, vested or eligible for Retirement under Pre-Retirement Death.

Sec. 12.10. Optional forms of benefits.

1. In lieu of the amount and form of retirement income payable in the event of normal Retirement as specified herein, a Member, upon written request to the Board, may elect to receive a retirement income or benefit of equivalent actuarial value payable in accordance with one (1) of the following options:

A. A retirement income of a monthly amount payable to the Member for his or her lifetime only.

B. A retirement income of a modified monthly amount, payable to the Member during the lifetime of the Member and following the death of the Member, one hundred percent (100%), seventy-five percent (75%), sixty-six and two-thirds percent (66 2/3%) or fifty percent (50%) of such monthly amount payable to a joint pensioner for his or her lifetime. The present value of payments to the Member shall not be less than fifty percent (50%) of the total present value of payments to the Member and his or her joint pensioner.

C. If a Member retires prior to the time at which social security benefits are payable, he or she may elect to receive an increased retirement benefit until such time as social security benefits shall be assumed to commence and a reduced benefit thereafter in order to provide, to as great an extent as possible, a more level retirement allowance during the entire period of Retirement. The amounts payable shall be as recommended by the actuaries for the System, based upon the social security law in effect at the time of the Member's Retirement.

2. The Member, upon electing any option of this Section, will designate the joint pensioner (subsection 1.B. above) or Beneficiary (or Beneficiaries) to receive the benefit, if any, payable under the System in the event of the Member's death, and will have the power to change such designation from time to time, but any such change shall be deemed a new election and will be subject to approval by the Board. Such designation will name a joint pensioner or one (1) or more primary Beneficiaries where applicable. A Member may change his or her Beneficiary at any time. If a Member has elected an option with a joint pensioner and the Member's retirement income benefits have commenced, the Member may thereafter change his or her designated Beneficiary at any time but may only change his or her joint pensioner twice. Subject to the restriction in the previous sentence, a Member may substitute a new joint pensioner for a deceased joint pensioner.

3. The consent of a Member's joint pensioner or Beneficiary to any such change shall not be required. The rights of all previously-designated Beneficiaries to receive benefits under the System shall thereupon cease.

4. Upon change of a Member's joint pensioner in accordance with this Section, the amount of the retirement income payable to the Member shall be actuarially redetermined to take into account the age of the former joint pensioner, the new joint pensioner and the Member and to ensure that the benefit paid is the Actuarial Equivalent of the present value of the Member's then-current benefit at the time of the change. Each request for a change will be made in writing on a form prepared by the Board and on completion will be filed with the Board. In the event that no designated Beneficiary survives the Retiree, such benefits as are payable in the event of the death of the Member subsequent to his or her Retirement shall be paid as provided in Section 12.11.

5. Retirement income payments shall be made under the option elected in accordance with the provisions of this Section and shall be subject to the following limitations:

A. If a Member dies prior to his or her normal Retirement date, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under Section 12.07.

B. If the designated Beneficiary (or Beneficiaries) or joint pensioner dies before the Member's Retirement under the System, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the Member upon his or her Retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this Section or a new Beneficiary is designated by the Member prior to Retirement and within 90 days after the death of the Beneficiary.

C. If both the Member and the Beneficiary (or Beneficiaries) designated by the Member die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of

subsection 1, the Board may, in its discretion, direct that the commuted value of the remaining payments be paid in a lump sum and in accordance with Section 12.11.

D. If a Member continues beyond his or her normal Retirement date pursuant to the provisions of Section 12.06, subsection 1, and dies prior to his or her actual Retirement and while an option made pursuant to the provisions of this Section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a Beneficiary (or Beneficiaries) designated by the Member in the amount or amounts computed as if the Member had retired under the option on the date on which his or her death occurred, except if Section 12.07 is applicable and provides a greater benefit.

6. A Member may not change his or her retirement option after the date of cashing or depositing his or her first retirement check.

7. Notwithstanding anything herein to the contrary, the Board, in its discretion, may elect to make a lump sum payment to a Member or a Member's Beneficiary in the event that the monthly benefit amount is less than one hundred dollars (\$100.00) or the total commuted value of the remaining monthly income payments to be paid do not exceed five thousand dollars (\$5,000.00), as of the date of Retirement or termination of service, whichever is applicable. Any such payment made to any person pursuant to the power and discretion conferred upon the Board by the preceding sentence shall operate as a complete discharge of all obligations under the System with regard to such Member and shall not be subject to review by anyone, but shall be final, binding and conclusive on all persons.

Sec. 12.11. Beneficiaries.

1. Each Member or Retiree may, on a form provided for that purpose, signed and filed with the Board, designate a Beneficiary (or Beneficiaries) to receive the benefit, if any, which may be payable in the event of his or her death. Each designation may be revoked or changed by such Member or Retiree by signing and filing with the Board a new designation-of-beneficiary form. Upon such change, the rights of all previously designated Beneficiaries to receive any benefits under the System shall cease.

2. If a deceased Member or Retiree failed to name a Beneficiary in the manner prescribed in subsection 1, or if the Beneficiary (or Beneficiaries) named by a deceased Member or Retiree predeceases the Member or Retiree, the death benefit, if any, which may be payable under the System with respect to such deceased Member or Retiree, shall be paid to the estate of the Member or Retiree and the Board, in its discretion, may direct that the commuted value of the remaining monthly income benefits be paid in a lump sum.

3. Any payment made to any person pursuant to this Section shall operate as a complete discharge of all obligations under the System with regard to the deceased

Member and any other persons with rights under the System and shall not be subject to review by anyone but shall be final, binding and conclusive on all persons ever interested hereunder.

Sec. 12.12. Claims procedures.

1. The Board shall establish administrative claims procedures to be utilized in processing written requests ("claims"), on matters which affect the substantial rights of any person ("Claimant"), including Members, Retirees, Beneficiaries, or any person affected by a decision of the Board.

2. The Board shall have the power to subpoena and require the attendance of witnesses and the production of documents for discovery prior to and at any proceedings provided for in the Board's claims procedures. The Claimant may request in writing the issuance of subpoenas by the Board. A reasonable fee may be charged for the issuance of any subpoenas not to exceed the fees set forth in Florida Statutes.

Sec. 12.13. Reports to Division of Retirement.

Each year and no later than March 15th, the Board shall file an Annual Report with the Division of Retirement containing the documents and information required by Section 175.261, Florida Statutes.

Sec. 12.14. Roster of retirees.

The Secretary of the Board shall keep a record of all persons enjoying a pension under the provisions of this ordinance in which it shall be noted the time when the pension is allowed and when the same shall cease to be paid. Additionally, the Secretary shall keep a record of all Members in such a manner as to show the name, address, date of employment and date of termination of employment.

Sec. 12.15. Maximum pension.

1. Basic Limitation.

Subject to the adjustments hereinafter set forth, the maximum amount of annual retirement income payable with respect to a Member under this System shall not exceed one hundred sixty thousand dollars (\$160,000).

For purposes of applying the above limitation, benefits payable in any form other than a straight life annuity with no ancillary benefits shall be adjusted, as provided by

Treasury Regulations, so that such benefits are the Actuarial Equivalent of a straight life annuity. For purposes of this Section, the following benefits shall not be taken into account:

A. Any ancillary benefit which is not directly related to retirement income benefits;

B. Any other benefit not required under §415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of §415(b)(1) of the Code.

2. Participation in Other Defined Benefit Plans.

The limitation of this Section with respect to any Member who at any time has been a member in any other defined benefit plan (as defined in §414(j) of the Code) maintained by the City shall apply as if the total benefits payable under all defined benefit plans in which the Member has been a member were payable from one (1) plan.

3. Adjustments in Limitations.

A. In the event the Member's retirement benefits become payable before age sixty-two (62), the one hundred sixty thousand dollar (\$160,000) limitation prescribed by this Section shall be reduced in accordance with Regulations issued by the Secretary of the Treasury pursuant to the provisions of §415(b) of the Code, so that such limitation (as so reduced) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) annual benefit beginning at age sixty-two (62).

B. In the event the Member's benefit is based on at least fifteen (15) years of Credited Service, the adjustments provided for in A. above shall not apply.

C. The reductions provided for in A. above shall not be applicable to disability benefits paid pursuant to Section 12.08, or pre-Retirement death benefits paid pursuant to Section 12.07.

D. In the event the Member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limitation set forth in subsection 1 herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his or her delegate.

4. Less than Ten (10) Years of Service.

The maximum retirement benefits payable under this Section to any Member who has completed less than ten (10) years of Credited Service with the City shall be the amount determined under subsection 1 of this Section multiplied by a fraction, the numerator of which is the number of the Member's years of Credited Service and the denominator of which is ten (10). The reduction provided for in this subsection shall not be applicable to disability benefits paid pursuant to Section 12.08, or pre-Retirement death benefits paid pursuant to Section 12.07.

5. Ten Thousand Dollar (\$10,000) Limit.

Notwithstanding the foregoing, the retirement benefit payable with respect to a Member shall be deemed not to exceed the limitations set forth in this Section if the benefits payable, with respect to such Member under this System and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars (\$10,000) for the applicable Plan Year and for any prior Plan Year and the City has not at any time maintained a qualified defined contribution plan in which the Member participated.

6. Reduction of Benefits.

Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the Member's benefit under any defined benefit plans in which the Member participated, such reduction to be made first with respect to the plan in which the Member most recently accrued benefits and thereafter in such priority as shall be determined by the Board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the Member participated; provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the Board and the plan administrator of all other plans covering such Member.

7. Cost-of-Living Adjustments.

The limitations as stated in subsections 1, 2 and 3 herein shall be adjusted to the time payment of a benefit begins in accordance with any cost-of-living adjustments prescribed by the Secretary of the Treasury pursuant to §415(d) of the Code.

8. Additional Limitation on Pension Benefits.

Notwithstanding anything herein to the contrary:

A. The normal retirement benefit or pension payable to a Retiree who becomes a Member of the System and who has not previously participated in the System, on or after January 1, 1980, shall not exceed one hundred percent (100%) of his or her Average Final Compensation. However, nothing contained in this Section shall apply to

supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.

B. No Member of the System shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the Member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

Sec. 12.16. Distribution of benefits.

Notwithstanding any other provision of this System to the contrary, a form of retirement income payable from this System after the effective date of this ordinance, shall satisfy the following conditions:

1. If the retirement income is payable before the Member's death,

A. It shall either be distributed or commence to the Member not later than April 1 of the calendar year following the later of the calendar year in which the Member attains age seventy and one-half (70-1/2), or the calendar year in which Member retires,

B. The distribution shall be paid a) over the life of the Member or over the lifetimes of the Member and spouse, issue or dependent, or b) over the period extending not beyond the life expectancy of the Member and spouse, issue or dependent.

Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the Member dies before his or her entire interest in the System has been distributed, the remaining portion of such interest in the System shall be distributed no less rapidly than under the form of distribution in effect at the time of the Member's death.

2. If the Member's death occurs before the distribution of his or her interest in the System has commenced, the Member's entire interest in the System shall be distributed within five (5) years of the Member's death, unless it is to be distributed in accordance with the following rules:

A. The Member's remaining interest in the System is payable to his or her spouse, issue or dependent;

B. The remaining interest is to be distributed over the life of the spouse, issue or dependent or over a period not extending beyond the life expectancy of the spouse, issue or dependent; and

C. Such distribution begins within one (1) year of the Member's death unless the Member's spouse shall receive the remaining interest in which case the distribution need not begin before the date on which the Member would have attained age seventy and one-half (70-1/2) and if the spouse dies before the distribution to the spouse begins, this Section shall be applied as if the spouse were the Member.

Sec. 12.17. Miscellaneous provisions.

1. Interest of Members in System.

At no time prior to the satisfaction of all liabilities under the System with respect to Retirees and Members and their spouses or Beneficiaries, shall any part of the corpus or income of the Fund be used for or diverted to any purpose other than for their exclusive benefit.

2. Qualification of System.

It is intended that the System will constitute a qualified public pension plan under the applicable provisions of the Code, as now in effect or hereafter amended. Any modification or amendment of the System may be made retroactively, if necessary or appropriate, to qualify or maintain the System as a Plan meeting the requirements of the applicable provisions of the Code as now in effect or hereafter amended, or any other applicable provisions of the U.S. federal tax laws, as now in effect or hereafter amended or adopted, and the regulations issued thereunder.

3. Use of Forfeitures.

Forfeitures arising from terminations of service of Members shall serve only to reduce future City contributions.

4. Compliance with Chapter 175, Florida Statutes.

It is intended that the System will continue to participate in the distribution of the tax fund established pursuant to Section 175.101, Florida Statutes.

Sec. 12.18. Repeal or termination of System.

1. This ordinance establishing the System and Fund, and subsequent ordinances pertaining to said System and Fund, may be modified, terminated, or amended, in whole or in part; provided that if this or any subsequent ordinance shall be amended or repealed in its application to any person benefiting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued

to the Member or Beneficiary shall not be affected thereby, except to the extent that the assets of the Fund may be determined to be inadequate.

2. If this ordinance shall be repealed, or if contributions to the System are discontinued or if there is a transfer, merger or consolidation of government units, services or functions as provided in Chapter 121, Florida Statutes, the Board shall continue to administer the System in accordance with the provisions of this ordinance, for the sole benefit of the then Members, any Beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in this ordinance who are designated by any of said Members. In the event of repeal, discontinuance of contributions, or transfer, merger or consolidation of government units, services or functions, there shall be full vesting (100%) of benefits accrued to date of repeal and the assets of the System shall be allocated in an equitable manner to provide benefits on a proportionate basis to the persons so entitled in accordance with the provisions thereof.

3. The following shall be the order of priority for purposes of allocating the assets of the System as of the date of repeal of this ordinance, or if contributions to the System are discontinued, with the date of such discontinuation being determined by the Board.

A. Apportionment shall first be made in respect of each Retiree receiving a retirement or disability benefit hereunder on such date, each person receiving a benefit on such date on account of a retired or disabled (but since deceased) Member, and each Member who has, by such date, become eligible for normal Retirement but has not yet retired, an amount which is the Actuarial Equivalent of such benefit, provided that, if such asset value be less than the aggregate of such amounts, such amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such asset value.

B. If there be any asset value remaining after the apportionment under paragraph A, apportionment shall next be made in respect of each Member in the service of the City on such date who is vested and who is not entitled to an apportionment under paragraph A, in the amount required to provide the Actuarial Equivalent of the vested portion of the accrued normal retirement benefit (but not less than Accumulated Contributions), based on the Credited Service and Average Final Compensation as of such date, and each vested former Member then entitled to a deferred benefit who has not, by such date, begun receiving benefit payments, in the amount required to provide said Actuarial Equivalent of the vested portion of the accrued normal retirement benefit (but not less than Accumulated Contributions), provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such latter amounts shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

C. If there be any asset value after the apportionments under paragraphs A and B, apportionment shall be made in respect of each Member in the service of the City on such date who is not entitled to an apportionment under paragraphs A and B in the amount equal to Member's Accumulated Contributions, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder such latter amount shall be proportionately reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

D. If there be any asset value remaining after the apportionments under paragraphs A, B, and C, apportionment shall lastly be made in respect of each Member included in paragraph C above to the extent of the Actuarial Equivalent of the non-vested accrued normal retirement benefit, less the amount apportioned in paragraph C, based on the Credited Service and Average Final Compensation as of such date, provided that, if such remaining asset value be less than the aggregate of the amounts apportioned hereunder, such amounts shall be reduced so that the aggregate of such reduced amounts will be equal to such remaining asset value.

E. In the event that there be asset value remaining after the full apportionment specified in paragraphs A, B, C, and D, such excess shall be returned to the City, less return of the State's contributions to the State, provided that, if the excess is less than the total contributions made by the City and the State to the date of termination such excess shall be divided proportionately to the total contributions made by the City and the State.

The allocation of the Fund provided for in this subsection may, as decided by the Board, be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this subsection. The Fund may be distributed in one (1) sum to the persons entitled to said benefits or the distribution may be carried out in such other equitable manner as the Board may direct. The Fund may be continued in existence for purposes of subsequent distributions.

If, at any time during the first ten (10) years after the effective date of the ordinance originally establishing this System, the System shall be terminated or the full current costs of the System shall not have been met, anything in the System to the contrary notwithstanding, City contributions which may be used for the benefit of any one (1) of the twenty-five (25) highest paid Members on the effective date, whose anticipated annual retirement allowance provided by the City's contributions at Member's normal Retirement date would exceed one thousand five hundred dollars (\$1,500), shall not exceed the greater of either a) twenty thousand dollars (\$20,000), or b), an amount computed by multiplying the smaller of ten thousand dollars (\$10,000) or twenty percent (20%) of such Member's average annual earnings during his or her last five (5) years of service by the number of years of service since the effective date. In the event that it shall hereafter be determined by statute, court decision, ruling by the Commissioner of Internal Revenue, or otherwise, that the provisions of this paragraph are not then necessary to

qualify the System under the Code, this paragraph shall be ineffective without the necessity of further amendment of this ordinance.

4. After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, then and only then shall any remaining funds revert to the general fund of the City.

Sec. 12.19. Exemption from execution; non-assignability.

Except as otherwise provided by law, the pensions, annuities, and any other benefits accrued or accruing to any person under the provisions of this ordinance and the Accumulated Contributions and the cash securities in the Fund created under this ordinance are hereby exempted from any state, county or municipal tax and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be unassignable.

Sec. 12.20. Pension validity.

The Board shall have the power to examine into the facts upon which any pension shall heretofore have been granted under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently or illegally for any reason. The Board is empowered to purge the pension rolls or correct the pension amount of any person heretofore granted a pension under prior or existing law or any person hereafter granted a pension under this ordinance if the same is found to be erroneous, fraudulent or illegal for any reason; and to reclassify any person who has heretofore under any prior or existing law been or who shall hereafter under this ordinance be erroneously, improperly or illegally classified. Any overpayments or underpayments shall be corrected and paid or repaid in a reasonable manner determined by the Board.

Sec. 12.21. Forfeiture of pension.

1. Any Member who is convicted of the following specified offenses committed prior to Retirement, or whose employment is terminated by reason of his or her admitted commission, aid or abetment of the following specified offenses, shall forfeit all rights and benefits under this System, except for the return of his or her Accumulated Contributions as of the date of termination. Specified offenses are as follows:

A. The committing, aiding or abetting of an embezzlement of public funds;

B. The committing, aiding or abetting of any theft by a public officer or employee from his or her employer;

C. Bribery in connection with the employment of a public officer or employee;

D. Any felony specified in Chapter 838, Florida Statutes, except Sections 838.15 and 838.16;

E. The committing of an impeachable offense.

F. The committing of any felony by a public officer or employee who, willfully and with intent to defraud the public or the public agency for which he or she acts or in which he or she is employed of the right to receive the faithful performance of his or her duty as a public officer or employee, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his or her public office or employment position.

2. "Conviction" shall be defined as an adjudication of guilt by a Court; a plea of guilty or of nolo contendere; a jury verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.

3. "Court" shall be defined as any state or federal court of competent jurisdiction which is exercising its jurisdiction to consider a proceeding involving the alleged commission of a specified offense.

4. Whenever the board has reason to believe that the rights and privileges of a Member under the System are required to be forfeited, the Board shall give notice and hold a hearing in accordance with Chapter 120, Florida Statutes for the purpose of determining whether such rights and privileges are required to be forfeited.

5. Any Member who has received benefits from the System in excess of his or her Accumulated Contributions shall be required to pay back to the Fund the amount of the benefits received in excess of his or her Accumulated Contributions. The Board may implement all legal action necessary to recover such funds.

Sec. 12.22. Conviction and forfeiture.

Upon conviction for a violation described in Section 175.195, Florida Statutes, a Member or Beneficiary of the System may, in the discretion of the Board, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under the System. For purposes of this subsection, "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

Sec. 12.23. Direct transfers of eligible rollover distributions.

1. Rollover Distributions.

A. General. This Section applies to distributions made on or after January 1, 2002. Notwithstanding any provision of the System to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

B. Definitions.

(1) **Eligible Rollover Distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of a distributee, except that an eligible rollover distribution does not include: 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 ten (10) years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code and the portion of any distribution that is not includible in gross income. Any portion of any distribution which would be includible in gross income will be an eligible rollover distribution if the distribution is made to an individual retirement account described in section 408(a), to an individual retirement annuity described in section 408(b) or to a qualified defined contribution plan described in section 401(a) or 403(a) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(2) **Eligible Retirement Plan:** An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, an eligible deferred compensation plan described in section 457(b) of the Code which is maintained by an eligible employer described in section 457(e)(1)(A) of the Code and which agrees to separately account for amounts transferred into such plan from this plan, an annuity contract described in section 403(b) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts a distributee's eligible rollover distribution. This definition shall apply in the case of an eligible rollover distribution to the surviving spouse.

(3) **Distributee:** A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse.

(4) Direct Rollover: A direct rollover is a payment by the plan to the eligible retirement plan specified by a distributee.

2. Rollovers or Transfers into the Fund.

On or after January 1, 2002, the System will accept, solely for the purpose of purchasing Credited Service as provided herein, permissible Member requested transfers of funds from other retirement or pension plans, Member rollover cash contributions and/or direct cash rollovers of distributions made on or after January 1, 2002, as follows:

A. Transfers and Direct Rollovers or Member Rollover Contributions from Other Plans. The System will accept either a direct rollover of an eligible rollover distribution or a Member contribution of an eligible rollover distribution from a qualified plan described in section 401(a) or 403(a) of the Code, from an annuity contract described in section 403(b) of the Code or from an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. The System will also accept legally permissible Member requested transfers of funds from other retirement or pension plans.

B. Member Rollover Contributions from IRAs. The system will accept a Member rollover contribution of the portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

Sec. 12.24. Assets of prior funds.

The assets of the Firefighter's Relief and Pension Fund, established by ordinance dated November 13, 1939, in accordance with Chapter 175, Florida Statutes, and of the Supplemental Hollywood Firefighter's Pension Fund, established by Chapter 30-838, Laws of Florida, 1955, and Chapter 59-1373, Laws of Florida, shall be merged on the effective date of their act into the Hollywood Firefighter's Pension System, created by this article. In addition, effective October 1, 1988, the assets of the Hollywood Firefighter's Supplemental Retirement System, established by Ordinance 0-76-93 [§§ 33.095 through 33.107], shall be merged into the assets of the Hollywood Firefighter's Pension System created hereunder.

Sec. 12.25. Coordination of pension benefits.

In the event that a City employee changes his or her job status with the City such that he or she is considered a Firefighter pursuant to Section 12.01, he or she may become a Member of the Firefighters' Pension System subject to the following rules:

1. "Date of transfer" shall be the date when the change in job status occurs such that he or she is considered to be a Firefighter pursuant to Section 12.01.

2. A Firefighter's total retirement benefits shall consist of a combination of the following:

A. **Benefits Payable by the Previous Plan.** The Firefighter's Accumulated Contributions, if any, shall remain funds of the previous plan. The Firefighter's retirement benefit payable from the previous plan shall be calculated by using benefit percentage rates and his or her credited service as of the date of transfer, and the greater of his or her Compensation as of the date of his or her termination of employment or as of the date of transfer. This benefit shall be payable commencing on the Firefighter's normal Retirement date pursuant to the Firefighter's Pension System. The transferred employee shall not be eligible for any other benefits from the previous plan.

B. **Benefits Payable by the Firefighters' Pension System.** For purposes of determining eligibility for retirement benefits under the Firefighters' Pension System, the Member's credited service prior to and after the date of transfer shall be included. For purposes of determining the amount of benefits payable under the Firefighters' Pension System, excluding death and disability benefits, only service following the date of transfer shall be included. For purposes of determining the amount of any death or disability benefits payable under the Firefighters' Pension System, Credited Service both prior to and after the date of transfer shall be included.

3. In the event that a City employee who is a Member of the Firefighters' Pension System is no longer considered a Firefighter pursuant to Section 12.01, the rules regarding his or her transfer to another retirement plan sponsored by the City shall be as set forth above, provided such other plan has appropriate language to accept transfers on the same basis.

4. If, prior to the date when this language regarding transferred employees becomes effective, a Member has transferred from one retirement plan sponsored by the City to another and had thereby lost credit under the previous plan for his or her service prior to the date of transfer, his or her credited service under the previous plan shall be restored under the following conditions:

A. The person must be an employee of the City on the date this language becomes effective.

B. Upon notification, the employee must repay the previous plan that amount of his or her contributions that he or she received from the previous plan due to his or her transfer to another plan within the City. The employee will have sixty (60) days to exercise this option. He or she will be given one year to repurchase every two (2) years of prior service.

C. All previous contributions must be repaid prior to the employee's Retirement to be eligible for any benefit under the previous plan.

D. Upon satisfaction of these conditions, the employee will be credited with service in each plan as indicated in subsection 2. above.

Sec. 12.26. Supplemental pension benefit.

The Board of Trustees has created and has been authorized to distribute an annual supplemental pension benefit which is payable on September 30th of each year. This supplemental pension benefit shall be calculated, administered and distributed as follows:

1. The actuary for the System shall determine the percentage rate of investment return on the Fund assets during the twelve (12) month period ending each September 30th ("annual investment return"). The rate determined shall be the rate reported in the most recent actuarial report submitted pursuant to Part VII of Chapter 112, Florida Statutes.

2. If the annual investment return exceeds the actuary's annual fund earnings assumption rate of eight percent (8%), then a supplemental pension distribution shall be made to eligible recipients. If the annual investment return equals or is less than the assumption rate, no supplemental pension distribution shall be made that year.

3. The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10%) and the annual fund earnings assumption rate of eight percent (8%) to a maximum annual investment return value of up to two percent (2%) as calculated on the Retirees' portion of the Fund's earnings.

4. Eligible recipients for supplemental pension benefit distribution shall be:

A. Current pension recipients who retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.

B. Surviving spouses (or other Beneficiaries) of deceased pension recipients who had retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.

5. The supplemental pension benefit fund shall be divided into equal shares, the number of which shall equal the aggregate number of eligible recipients. On an annual basis, one share shall be awarded and paid, when appropriate, to each eligible recipient.

Sec. 12.27. Deferred Retirement Option Plan.

1. In lieu of terminating employment and accepting a service retirement allowance under the System, any Member who has reached age fifty (50) and who has completed ten (10) years of Credited Service or who has completed not less than twenty-three (23) years and not more than thirty (30) years of Credited Service and who is eligible to receive a service retirement allowance may elect to participate in the Deferred Retirement Option Plan and defer the receipt of benefits in accordance with the provisions of this section.

2. The election to participate in the DROP shall be exercised not later than the attainment of thirty (30) years of Credited Service or such right of election shall be forfeited.

3. The duration of participation in the DROP shall be specified and shall not exceed a number of years which, when added to the number of years of Credited Service, exceeds a total of thirty-three (33) years. In any event, the total participation in the DROP shall not exceed eight (8) years, and participation will end if the Member is terminated for just cause. These participation limits will apply to all current and future DROP participants but will have no retroactive benefit for Members who have terminated their employment prior to October 1, 1999.

4. A Member may participate in the DROP only once, and, after commencement in the DROP, he or she shall never have the right to be a contributing Member of the System again.

5. Upon the effective date of the commencement of participation in the DROP, membership in the System shall terminate and neither employee nor employer contributions shall be payable. For purposes of this section, Compensation and Credited Service shall remain as they existed on the effective date of commencement of participation in the DROP, except as otherwise provided in this Article. The monthly retirement benefits that would have been payable, had the Member elected to cease employment and receive a service retirement allowance, shall be paid into the DROP account. These deferred benefits shall earn interest as provided in subsection 6 below. Upon termination of employment, deferred benefits shall be payable as provided in subsection 8 below.

6. Participants will have the option of directing some or all of their deferred benefits into an interest-bearing account with an eight percent (8%) fixed rate of return. The administration and frequency of said option shall be determined by the Board. Any deferred benefits not directed into the fixed-rate account shall remain in a variable-rate account and shall earn interest at a rate set by the Board. Such interest shall be weighted and credited on a pro-rata basis by the Board to each individual account balance in the DROP account on an annual or other basis as determined by the Board.

7. The DROP account shall not be subject to any fees, charges, etc., of any kind for any purpose.

8. Upon termination of employment, a participant in the DROP shall receive, at his or her option, a lump sum payment from the DROP account equal to the payments to the DROP account, plus earned interest, or a true annuity based upon his or her account balance, or the participant may elect any other method of payment if approved by the Board. The monthly benefits that were being paid into the DROP account during the period of participation shall begin being paid to the Retiree.

9. If a participant dies during the period of participation in the DROP, a lump sum payment equal to his or her account balance shall be paid to his or her Beneficiary or, if none, to his or her estate; in addition, normal survivor benefits payable to the survivors of Retirees shall be payable. If a participant terminates employment prior to the end of the specified period of participation, he or she shall receive, at his or her option, a lump sum payment from the DROP account equal to the payments to the DROP account, plus earned interest, or a true annuity based upon the participant's account balance, or he or she may elect any other method of payment if approved by the Board. The monthly benefits that were being paid into the DROP account during the period of participation shall begin being paid to the Retiree.

10. If employment is not terminated at the end of the period specified for participation, payments into the DROP account shall cease and no further interest shall be earned or credited to the individual account in the DROP account for the duration of employment past the end of the period specified for participation. Payment from the DROP account shall not be made until employment is terminated, nor shall the monthly benefits being paid into the DROP account during the period of participation be payable to the Member until he or she terminates employment. Upon termination of employment, a Member shall receive, at his or her option, a lump sum payment from the DROP account equal to the payments to the DROP account, plus interest earned by the individual account, or a true annuity based upon the Member's account balance, or he or she may elect any other method of payment if approved by the Board.

A. If a Member becomes disabled after the period of participation in the DROP but while still an employee and his or her employment is terminated because of said disability, the Member shall receive, at his or her option, a lump sum payment from the DROP account equal to the payments to the DROP account, plus earned interest, or a true annuity based upon his or her account balance, or the Member may elect any other method of payment if approved by the Board. The monthly benefits that were being paid into the DROP account during the period of participation shall begin being paid to the Retiree.

B. If a Member dies after the period of participation in the DROP but while still an employee, a lump sum payment equal to his or her account balance shall be

paid to his or her Beneficiary or, if none, to his or her estate; in addition, normal survivor benefits payable to survivors of Retirees shall be payable.

Sec. 12.28. Amendments to this article.

This article, including this section, may be amended, in whole or in part, or repealed by the City Commission upon approval of any such amendment or repeal by:

1. A "majority plus one" vote of the City Commission and 50 percent plus one of the voting Members; or
2. A majority vote of those qualified electors of the City voting in a referendum election called for such purpose by the City Commission and held in accordance with the provisions of law relating to elections currently in force in the City, or held in conjunction with a primary, general, or other special election held in the City.

10/13/04pac

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R-2002 - 133

Employee
Organization
Agreement

between

The City of Hollywood

and

**The Hollywood Professional
Fire Fighters,
Local #1375**

**October 1, 2002
through
September 30, 2005**

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EMPLOYEE ORGANIZATION AGREEMENT

This Agreement is entered into by and between the City of Hollywood, Florida, hereinafter referred to as the "City" and the Hollywood Professional Fire Fighters, Inc., Local #1375, International Association of Firefighters, hereinafter referred to as the "Union". It is the intent and purpose of this Agreement to assure sound and mutually beneficial working and economic relationships between the parties hereto, to provide an orderly, prompt and peaceful means of resolving any misunderstandings or differences which may arise, and to set forth herein basic and full agreement between the parties concerning rates of pay wages, hours of employment, and other terms and conditions of employment. It is understood that the City of Hollywood is engaged in furnishing essential public services which vitally affect the health, safety, comfort and general well-being of the public, and both parties hereto recognize the need for continuous and reliable service to the public.

Within the context of this agreement, all uses of the terms "he, him, and his" shall be considered to be gender-neutral and freely interchangeable with the corresponding terms of "she, her, and hers."

ARTICLE 1: RECOGNITION

Sec. 1: The City recognizes the Union as the exclusive Bargaining Agent for all employees in the Bargaining Unit with respect to wages, hours, and all other terms and conditions of employment.

Sec. 2: The Bargaining Unit shall include the positions as described in the job specifications as Firefighters, Driver Engineers, Lieutenants, Captains, Training Instructors, Training Officers, and Fire Prevention Officers I, II and III. The Bargaining Unit shall exclude all Battalion Chiefs (including the Deputy Fire Marshall), Division Chiefs, Deputy Chiefs, the Fire Chief, and civilian employees.

Sec. 3: (a) In the event that new positions are created within the City, that such positions satisfy the criteria specified in Section 3(b) below, and in the absence of any other specific agreement between the parties, the City and the Union agree to mutually petition the Public Employees Relations Commission to have said positions included in the Firefighter Bargaining Unit. If said petition is granted, the parties shall immediately begin impact bargaining to establish wages, hours, and working conditions for the new unit personnel.

(b) The criteria referenced in Section 3(a) above shall require that (1) the positions be created for certified firefighter, emergency medical technician, and/or paramedic personnel and that (2) a substantial portion of the corresponding job responsibilities be based upon, but not limited to, the delivery of emergency and/or non-emergency care, treatment, transportation, and/or medical supervision to private citizens. This provision shall not preclude the parties from mutually agreeing to include or exclude new positions on a case-by-case basis nor shall it be construed as a waiver by either party of any other petitioning rights that may exist under applicable law.

(c) The parties agree that the above provisions shall only apply to newly created positions and shall not be applied to existing positions such as, but not limited to, marine safety officers and community service officers.

AMENDMENT TO EMPLOYEE ORGANIZATION AGREEMENT

between

THE CITY OF HOLLYWOOD

and

THE HOLLYWOOD PROFESSIONAL FIRE FIGHTERS, LOCAL #1375

This Amendment sets forth the agreement between the City of Hollywood ("City") and the Hollywood Professional Fire Fighters, Local 1375 ("Union") resolving the bargaining related to the Collective Bargaining Agreement between the parties that covers the period of October 1, 2002 through September 30, 2005. Accordingly, upon ratification of this Amendment by both parties, the provisions set forth in this Amendment shall amend and replace, in its entirety, Article 28: Pension Plan of the current Collective Bargaining Agreement ("Agreement") and the Agreement shall otherwise remain unchanged. Thus, the parties agree that Article 28 of the Agreement shall be amended as follows:

ARTICLE 28: PENSION PLANS AS AMENDED

Sec. 1: The City and the Union acknowledge and agree that the following shall apply to all participants in the Hollywood Firefighters Pension System:

a) From 1976 to 1988, the City of Hollywood offered two separate pension plans to the members of the firefighters' bargaining unit: the (1) Prior Plan and the (2) Supplemental Plan;

b) Effective October 1, 1988, one (1) pension plan was created by merging the Supplemental Plan into the Prior Plan. Thereafter, the merged plan became known as the Hollywood Firefighters' Pension System;

c) Through September 30, 2004, the merged plan provided the following:

1. The same terms, conditions, definitions, and benefits that existed in the Prior Plan, except as specified herein;

2. All individuals shall have average final compensation defined as the average cash compensation of a firefighter during his highest three years of service; except that members previously in the Prior Plan only shall have included in the average final compensation accrued sick leave compensation earned and unused up to a maximum of 2200 hours;
3. Commencing three (3) years after the date retirement benefits begin, a retired member shall receive a two percent (2%) annual increase in retirement benefits. The provisions of this subsection shall only be applicable to members previously in the Supplemental System and any new hires.
4. Upon retirement, all members shall have the option of continuing under the City's health insurance plan under the same terms and conditions as if they were still an active employee, except that they shall pay for dependent coverage for eligible dependents;
5. A deferred retirement option plan, as described in Section 2 below;
6. The City shall maintain tax qualification of the Pension Plan under the provisions of Section 414 (H)(2) of the Internal Revenue Code;
7. The normal retirement benefit shall be payable to a covered employee after 25 years of service and regardless of age at retirement;
8. A three percent (3%) accrual rate for all members, up to a maximum benefit of eighty-one percent (81%); members will receive full credit for all years of service and will not have any benefits pro rated or otherwise reduced based on years of service under a lesser accrual rate;

9. A marriage requirement for post-retirement death benefit of two (2) years before retirement; this benefit shall also be applied to current DROP participants;
10. Payment of post-retirement death benefits provided that the member was married at least two (2) years prior to his death; this benefit shall also be applied to current DROP participants;
11. An annual increase of two-percent (2%) in spousal survival benefits.

d) Effective October 1, 2004, the City and the Union acknowledge and agree that the following shall apply to all participants in the Hollywood Firefighters Pension who were actively employed, including those in the DROP, on or after October 1, 2002:

1. All members who were employed by the City on or before May 1, 1977, shall remain as previous members of the Prior Plan, as opposed to the Supplemental Plan, and shall receive all related rights and benefits. However, these members shall not obtain the benefits of both the Prior Plan and Supplemental Plan.
2. All individuals shall have average final compensation defined as the average cash compensation of a firefighter during his highest three years of service, including all wages, overtime, workers' compensation/supplemental compensation, expense allowances, cash conversion of holiday benefits, all earned and unused annual leave, compensatory time, blood time, and Educational Incentive Payment. In addition, members previously in the Prior Plan only shall have included in the average final compensation accrued sick leave compensation earned and unused up to a maximum of 2,200 hours; and
3. Upon retirement, members shall have the option of continuing under the City's health plan under the same single coverage

terms and conditions that were in effect at their time of retirement, except that they shall pay the full cost for dependent coverage for eligible dependents. The provisions of this section shall have no retroactive application to any employee who retired for any reason prior to October 1, 2004; and

4. Members shall contribute eight percent (8%) of salary to the pension fund.
5. All participants in the Hollywood Firefighters Pension System shall be eligible to receive normal retirement benefits or to enter into the DROP after twenty-three (23) years of service and regardless of age at retirement or entry into the DROP.
6. The following shall apply to all participants in the Hollywood Firefighters Pension System who were actively employed on or after October 1, 2002:
 - a) A three and three/tenths percent (3.3%) accrual rate for each year of creditable service up to a maximum benefit of eighty-six percent (86%). Members will receive full credit for all years of service and will not have any benefits pro-rated or otherwise reduced based on years of service under a lesser rate; and
 - b) Any members who have already retired or entered into the DROP shall have their monthly benefit recalculated and paid at the full three and three/tenths percent (3.3%) accrual rate beginning October 1, 2004. There shall be no retroactive payment for time spent in retirement or the DROP prior to October 1, 2004.

Sec. 2: The deferred retirement option plan shall be as follows:

a) In lieu of terminating employment and accepting a service retirement allowance under the existing provisions, any member of this system who has reached age fifty (50) or who has not less than twenty-five (25) years and not more than thirty (30) years of creditable service and who is eligible to receive a service retirement allowance may elect to participate in the deferred retirement option plan and defer the receipt of benefits in accordance with the provisions of this section. Effective October 1, 2004, any member of this system who has reached age fifty (50) or who has not less than twenty-three (23) years and not more than thirty (30) years of creditable service and who is eligible to receive a service retirement allowance may elect to participate in the deferred retirement option plan and defer the receipt of benefits in accordance with the provisions of this section;

b) The election to participate in the plan shall be exercised prior to the attainment of thirty years of creditable service or such right of election shall be forfeited;

c) The duration of participation in the plan shall be specified, and shall not exceed a number of years which when added to the number of years of all creditable service which the member has in the retirement system, exceeds a total of thirty-three (33) years. In any event, the total participation in the plan shall not exceed eight (8) years; and participation will end if the employee is terminated for just cause. These participation limits will apply to all current and future DROP participants but will have no retroactive benefit for members who have terminated their employment prior to October 1, 1999;

d) A member may participate in the plan only once and after commencement in the plan he shall never have the right to be a contributing member of the retirement system again;

e) Upon the effective date of the commencement of participation in the plan, membership in the pension system shall terminate and neither employee nor employer contributions shall be payable. For purposes of this section, compensation and creditable service shall remain as they existed on the effective date of commencement of participation in the plan except as otherwise provided in Section 1 above. The monthly retirement benefits that would have been payable, had the member elected to cease

employment and receive a service retirement allowance, shall be paid into the deferred retirement option account. These deferred benefits shall earn interest as provided in subsection (f). Upon termination of employment, deferred benefits shall be payable as provided by subsection (h);

f) Participants will have the option of directing some or all of their deferred benefits into an interest bearing account with an eight percent (8%) fixed rate of return. The administration and frequency of said option shall be determined by the Board of Trustees. Any deferred benefits not directed into the fixed-rate account shall remain in a variable-rate account and shall earn interest at a rate set annually by the Board of Trustees. Such interest shall be weighted and credited on a pro-rata basis by the Board of Trustees to each individual account balance in the account on an annual basis;

g) The deferred retirement option plan account shall not be subject to any fees, charges, etc., of any kind for any purpose;

h) Upon termination of employment, a participant in the program shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon his account, or the participant may elect any other method of payment if approved by the Board of Trustees. The monthly benefits that were being paid into the fund during the period of participation shall begin being paid to the retiree;

i) If a participant dies during the period of participation in the program, a lump sum payment equal to his account balance shall be paid to the participant's named beneficiary or, if none, to his estate; in addition, normal survivor benefits payable to the survivors of retirees shall be payable. If a participant terminates employment prior to the end of the specified period of participation, he shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon the participant's account balance, or he may elect any other method of payment if approved by the Board of Trustees. The monthly benefits that were being paid into the fund during the period of participation shall begin being paid to the retiree.

j) If employment is not terminated at the end of the period specified for participation, payments into the account shall cease and no further interest shall be earned or credited to the individual account in the fund for the duration of employment past the end of the period specified for participation. Payment from the account shall not be made until employment is terminated, nor shall the monthly benefits being paid into the fund during the period of participation be payable to the individual until he terminates employment. Upon termination of employment, a member shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus interest earned by the individual account, or a true annuity based upon the member's account balance, or he may elect any other method of payment if approved by the Board of Trustees.

k) (1) If an employee becomes disabled after the period of participation in the plan but while still an employee and his employment is terminated because of said disability, the employee shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon his account balance, or the employee may elect any other method of payment if approved by the Board of Trustees. The monthly benefits that were paid into the fund during the period of participation shall begin being paid to the retiree.

(2) If an employee dies after the period of participation in the plan but while still an employee, a lump sum payment equal to his account balance shall be paid to the employee's named beneficiary or, if none, to his estate; in addition, normal survivor benefits payable to survivors of retirees shall be payable.

Sec. 3: The pension benefits and changes set forth herein are conditioned upon the use by the actuary of an eight percent (8%) or better annual fund earnings assumption.

Sec. 4: The Board of Trustees shall be authorized to create and distribute an annual supplemental pension benefit which shall be payable every September 30, 2000 and then every September 30th thereafter. The supplemental pension benefit shall be calculated, administered, and distributed as follows:

a) The actuary for the pension fund shall determine the percentage rate of investment return on the pension fund assets during the twelve (12) month period ending each September 30th (annual investment return). The rate determined shall be the rate reported in the most recent actuarial report submitted pursuant to Part VII of Chapter 112 of the Florida Statutes.

b) If the annual investment return exceeds the actuary's annual fund earnings assumption rate of eight percent (8%), then a supplemental pension distribution shall be made to eligible recipients. If the annual investment return equals or is less than the assumption rate, no supplemental pension distribution shall be made that year.

c) The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10.0%) and the annual fund earnings assumption rate (8%) to a maximum annual investment return value of up to two percent (2.0%) as calculated on the retirees' portion of the pension fund's earnings.

d) Eligible recipients for supplemental pension benefit distribution shall be:

1. Current pension recipients who retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid;
2. Surviving spouses (or other beneficiaries) of deceased pension recipients who had retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.

e) The supplemental pension benefit fund shall be divided into equal shares, the number of which shall equal the aggregate number of eligible recipients. On an annual basis, one share shall be awarded and paid, when appropriate, to each eligible recipient.

Sec. 5: (a) Effective 10/1/99, Section 12.08(5)(a) of the pension plan shall be amended to read as follows:

(a) *Service-incurred disability benefit.* Until death or recovery from disability, whichever event shall first occur, the amount of such monthly disability benefits shall be equal to seventy-five percent (75%) of salary or wages of the firefighter at the time of final determination of disability.

(b) Effective 10/1/99, Section 12.08(5)(b) of the pension plan shall be amended to read as follows:

(b) *Non-service-incurred disability benefit.* Until normal retirement date, death or recovery from disability, whichever event shall first occur, the amount of such monthly disability benefit shall be equal to twenty-five percent (25%) of salary or wages of the firefighter at the time of final determination of disability. Commencing with the normal retirement date, the benefit shall be computed as a service-incurred disability benefit, the amount of which shall be equal to seventy-five percent (75%) of salary or wages of the fireman at the time of final determination of disability.

Sec. 6: The benefit improvements are subject to receipt of the actuarial impact statement consistent with the cost projections associated with the benefit improvements contained in Sections 1 (d) and 2 of this agreement, consistent with that indicated in written correspondence from the Pension Board actuary.

Sec. 7: The City and the Union agree that:

a) The pension benefit improvements contained in Sections 1 (d) and 2 of this agreement are: (i) either "minimum benefits" or "extra benefits" as those terms are used in section 175.351(1), Florida Statutes, and (ii) are and shall be reported in the annual reports filed by the pension fund with the Florida Division of Retirement for the fiscal years ending September 30, 2005 and thereafter as "qualifying benefit improvements" as that term is used in the Actuarial Confirmation of the Use of State Moneys page of said reports (for purposes of reference only, since the page and section numbers may change in future years, on the 2003

report, this was page 6.a, section C.(1))

b) The cumulative balance of additional premium tax revenues that are remaining to be used to provide future 'minimum benefit' or 'extra benefit' improvements as of September 30, 2004 equal to \$1,270,975.40, as expected to be shown on page 6a, section C(4) of the 2004 Annual Report filed by the pension fund with the DOR, shall also be used to fund the above referenced pension benefit improvements.

(c) Pension plan investment expenses will continue to be paid directly from investment earnings.

Sec. 8: (a) The City and the Union recognize that certain members of the bargaining unit had intended to enter the DROP during calendar year 2004 based upon establishing eligibility under the following criteria: (1) attaining twenty-five (25) years of service anytime during 2004; (2) attaining age fifty (50) anytime during 2004; or (3) attaining twenty-three (23) years of service on or after October 1, 2004. The City and the Union further recognize that these members were forced to schedule and, in most cases, utilize annual leave that would have otherwise been converted to cash payment and included in their Average Final Compensation for pension calculation purposes. The City and the Union agree that these members will be "made whole" for pension purposes by offering the following option.

b) Within thirty (30) days of the effective date of this Amendment, members who attain eligibility based upon the criteria listed above may indicate (in writing) a prospective or retroactive date for their entry into the DROP, provided that such date does not otherwise negate their eligibility. The City shall determine the individual's balance of annual leave on January 1, 2004, plus any annual leave utilized between January 1, 2004, and the individual member's indicated date of entry into the DROP. For the purposes of this section only, this total amount of annual leave shall be referred to as the "maximum compensable bank of annual leave".

c) At the time of their entry into the DROP, members will be permitted to borrow time against their future accrual of annual leave in an amount sufficient to (when

added to their existing balance of unused annual leave) equal their maximum compensable bank of annual leave. The borrowed hours of annual leave will then be converted to cash payment for inclusion in the participant's average final compensation calculation in conjunction with all other appropriate forms compensation.

d) Borrowed hours of annual leave will be repaid by the participant on an hour-for-hour basis at the normal rate of bi-weekly accrual of annual leave. In the event that the participant separates from the City prior to full repayment, then the cash value of any unpaid balance shall be withheld from the participant's final separation paycheck or, if necessary, from the participant's first pension benefit distribution check.

(e) DROP benefits for any retroactive period of participation will be paid at a variable-rate of return as determined by the Pension System's Board of Trustees until such time as the participant is afforded additional options as provided in Section 2(f) above.

ARTICLE 48: DURATION OF AGREEMENT

Sec. 1: This Agreement shall be effective on October 1, 2002 and shall remain in full force and effect until September 30, 2005.

Sec. 2: Specific provisions as to effective dates, found in any of the various articles of this Agreement, shall not be affected by the provisions of Section 1, above. In case of conflict, the specific Article provisions shall prevail.

Sec. 3: This Agreement shall automatically be renewed from year to year thereafter unless either party shall have notified the other, in writing, by January 1, 2005 that it desires to modify the Agreement with negotiations to begin thirty days thereafter or such other date as is mutually agreed upon. The terms and conditions of employment reflected in this Agreement shall remain in full force and effect until replaced by either (1) a subsequently ratified replacement agreement or (2) actions resulting from the provisions of F.S. 447.403.

Sec. 4: The parties acknowledge the obligations created by F.S. 447.309(2)(a) and agree to initiate immediate impact bargaining in the event that the City Commission fails to appropriate sufficient amounts to fund the provisions of this collective bargaining agreement.

EXECUTION OF AGREEMENT

THIS AGREEMENT, having been duly ratified by vote of the members of the Bargaining Unit covered hereunder, and the City Commission of the City of Hollywood, is hereby executed with the signatures affixed hereto.

DATED this 17th day of April, 2002.

WITNESSES:

[Signature]

**HOLLYWOOD PROFESSIONAL
FIRE FIGHTERS, LOCAL #1375,
INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS**

By: [Signature]
President

Date: 8/9/02

As to Local 1375

WITNESSES:

[Signature]

**CITY OF HOLLYWOOD, a municipal
corporation of the State of Florida**

By: [Signature]
Mayor

Attest: [Signature]
City Clerk

Approved: [Signature]
City Manager

Approved: [Signature]
Finance Director

Approved: [Signature]
Director of Human Resources

As to the City

**APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF HOLLYWOOD, FLORIDA, ONLY.**

BY: [Signature]
**DANIEL L. ABBOTT
CITY ATTORNEY**

APPROVED AS TO FORM:

City Attorney

2c

Employee
Organization
Agreement

between

The City of Hollywood

and

The Hollywood Professional
Fire Fighters,
Local #1375

October 1, 2005
through
September 30, 2008

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EMPLOYEE ORGANIZATION AGREEMENT

This Agreement is entered into by and between the City of Hollywood, Florida, hereinafter referred to as the "City" and the Hollywood Professional Fire Fighters, Inc., Local #1375, International Association of Firefighters, hereinafter referred to as the "Union". It is the intent and purpose of this Agreement to assure sound and mutually beneficial working and economic relationships between the parties hereto, to provide an orderly, prompt and peaceful means of resolving any misunderstandings or differences which may arise, and to set forth herein basic and full agreement between the parties concerning rates of pay wages, hours of employment, and other terms and conditions of employment. It is understood that the City of Hollywood is engaged in furnishing essential public services which vitally affect the health, safety, comfort and general well-being of the public, and both parties hereto recognize the need for continuous and reliable service to the public.

Within the context of this agreement, all uses of the terms "he, him, and his" shall be considered to be gender-neutral and freely interchangeable with the corresponding terms of "she, her, and hers."

ARTICLE 1: RECOGNITION

Sec. 1: The City recognizes the Union as the exclusive Bargaining Agent for all employees in the Bargaining Unit with respect to wages, hours, and all other terms and conditions of employment.

Sec. 2: The Bargaining Unit shall include the positions as described in the job specifications as Firefighters, Driver Engineers, Lieutenants, Captains, Training Instructors, Training Officers, and Fire Prevention Officers I, II and III. The Bargaining Unit shall exclude all Battalion Chiefs (including the Deputy Fire Marshall), Division Chiefs, Deputy Chiefs, the Fire Chief, and civilian employees.

Sec. 3: (a) In the event that new positions are created within the City, that such positions satisfy the criteria specified in Section 3(b) below, and in the absence of any other specific agreement between the parties, the City and the Union agree to mutually petition the Public Employees Relations Commission to have said positions included in the Firefighter Bargaining Unit. If said petition is granted, the parties shall immediately begin impact bargaining to establish wages, hours, and working conditions for the new unit personnel.

(b) The criteria referenced in Section 3(a) above shall require that (1) the positions be created for certified firefighter, emergency medical technician, and/or paramedic personnel and that (2) a substantial portion of the corresponding job responsibilities be based upon, but not limited to, the delivery of emergency and/or non-emergency care, treatment, transportation, and/or medical supervision to private citizens. This provision shall not preclude the parties from mutually agreeing to include or exclude new positions on a case-by-case basis nor shall it be construed as a waiver by either party of any other petitioning rights that may exist under applicable law.

(c) The parties agree that the above provisions shall only apply to newly created positions and shall not be applied to existing positions such as, but not limited to, marine safety officers and community service officers.

ARTICLE 28: PENSION PLANS

Sec. 1: The City and the Union acknowledge and agree that the following shall apply to all participants in the Hollywood Firefighters Pension System:

a) From 1976 to 1988, the City of Hollywood offered two separate pension plans to the members of the firefighters' bargaining unit: the (1) Prior Plan and the (2) Supplemental Plan;

b) Effective October 1, 1988, one (1) pension plan was created by merging the Supplemental Plan into the Prior Plan. Thereafter, the merged plan became known as the Hollywood Firefighters' Pension System;

c) Through September 30, 2004, the merged plan provided the following:

1. The same terms, conditions, definitions, and benefits that existed in the Prior Plan, except as specified herein;
2. All individuals shall have average final compensation defined as the average cash compensation of a firefighter during his highest three years of service; except that members previously in the Prior Plan only shall have included in the average final compensation accrued sick leave compensation earned and unused up to a maximum of 2200 hours;
3. Commencing three (3) years after the date retirement benefits begin, a retired member shall receive a two percent (2%) annual increase in retirement benefits. The provisions of this subsection shall only be

applicable to members previously in the Supplemental System and any new hires.

4. Upon retirement, all members shall have the option of continuing under the City's health insurance plan under the same terms and conditions as if they were still an active employee, except that they shall pay for dependent coverage for eligible dependents;
5. A deferred retirement option plan, as described in Section 2 below;
6. The City shall maintain tax qualification of the Pension Plan under the provisions of Section 414 (H)(2) of the Internal Revenue Code;
7. The normal retirement benefit shall be payable to a covered employee after 25 years of service and regardless of age at retirement;
8. A three percent (3%) accrual rate for all members, up to a maximum benefit of eighty-one percent (81%); members will receive full credit for all years of service and will not have any benefits pro rated or otherwise reduced based on years of service under a lesser accrual rate;
9. A marriage requirement for post-retirement death benefit of two (2) years before retirement; this benefit shall also be applied to current DROP participants;
10. Payment of post-retirement death benefits provided that the member was married at least two (2) years prior to his death; this benefit shall also be applied to current DROP participants;
11. An annual increase of two-percent (2%) in spousal survival benefits.

d) Effective October 1, 2004, the City and the Union acknowledge and agree that the following shall apply to all participants in the Hollywood Firefighters Pension who were actively employed, including those in the DROP, on or after October 1, 2002:

1. All members who were employed by the City on or before May 1, 1977, shall remain as previous members of the Prior Plan, as opposed to the Supplemental Plan, and shall receive all related rights and benefits. However, these members shall not obtain the benefits of both the Prior Plan and Supplemental Plan.
2. All individuals shall have average final compensation defined as the average cash compensation of a firefighter during his highest three years of service, including all wages, overtime, workers' compensation/supplemental compensation, expense allowances, cash conversion of holiday benefits, all earned and unused annual leave, compensatory time, blood time, and Educational Incentive Payment. In addition, members previously in the Prior Plan only shall have included in the average final compensation accrued sick leave compensation earned and unused up to a maximum of 2,200 hours; and
3. Upon retirement, members shall have the option of continuing under the City's health plan under the same single coverage terms and conditions that were in effect at their time of retirement, except that they shall pay the full cost for dependent coverage for eligible dependents. The provisions of this section shall have no retroactive application to any employee who retired for any reason prior to October 1, 2004; and

4. Members shall contribute eight percent (8%) of salary to the pension fund.
5. All participants in the Hollywood Firefighters Pension System shall be eligible to receive normal retirement benefits or to enter into the DROP after twenty-three (23) years of service and regardless of age at retirement or entry into the DROP.
6. The following shall apply to all participants in the Hollywood Firefighters Pension System who were actively employed on or after October 1, 2002:
 - a) A three and three/tenths percent (3.3%) accrual rate for each year of creditable service up to a maximum benefit of eighty-six percent (86%). Members will receive full credit for all years of service and will not have any benefits pro-rated or otherwise reduced based on years of service under a lesser rate; and
 - b) Any members who have already retired or entered into the DROP shall have their monthly benefit recalculated and paid at the full three and three/tenths percent (3.3%) accrual rate beginning October 1, 2004. There shall be no retroactive payment for time spent in retirement or the DROP prior to October 1, 2004.

Sec. 2: The deferred retirement option plan shall be as follows:

- (a) In lieu of terminating employment and accepting a service retirement allowance under the existing provisions, any member of this system who has reached age fifty (50) or who has not less than twenty-three (23) years and not more than thirty (30) years of creditable service and who is eligible to receive a service retirement allowance may elect to participate in the deferred retirement option plan and defer the

receipt of benefits in accordance with the provisions of this section. Effective October 1, 2004, any member of this system who has reached age fifty (50) or who has not less than twenty-three (23) years and not more than thirty (30) years of creditable service and who is eligible to receive a service retirement allowance may elect to participate in the deferred retirement option plan and defer the receipt of benefits in accordance with the provisions of this section;

(b) The election to participate in the plan shall be exercised prior to the attainment of thirty years of creditable service or such right of election shall be forfeited;

(c) The duration of participation in the plan shall be specified, and shall not exceed a number of years which when added to the number of years of all creditable service which the member has in the retirement system, exceeds a total of thirty-three (33) years. In any event, the total participation in the plan shall not exceed eight (8) years; and participation will end if the employee is terminated for just cause. These participation limits will apply to all current and future DROP participants but will have no retroactive benefit for members who have terminated their employment prior to October 1, 1999;

(d) A member may participate in the plan only once and after commencement in the plan he shall never have the right to be a contributing member of the retirement system again;

(e) Upon the effective date of the commencement of participation in the plan, membership in the pension system shall terminate and neither employee nor employer contributions shall be payable. For purposes of this section, compensation and creditable service shall remain as they existed on the effective date of commencement

of participation in the plan except as otherwise provided in Section 1 above. The monthly retirement benefits that would have been payable, had the member elected to cease employment and receive a service retirement allowance, shall be paid into the deferred retirement option account. These deferred benefits shall earn interest as provided in subsection (f). Upon termination of employment, deferred benefits shall be payable as provided by subsection (h);

(f) Participants will have the option of directing some or all of their deferred benefits into an interest bearing account with an eight percent (8%) fixed rate of return. The administration and frequency of said option shall be determined by the Board of Trustees. Any deferred benefits not directed into the fixed-rate account shall remain in a variable-rate account and shall earn interest at a rate set annually by the Board of Trustees. Such interest shall be weighted and credited on a pro-rata basis by the Board of Trustees to each individual account balance in the account on an annual basis;

(g) The deferred retirement option plan account shall not be subject to any fees, charges, etc., of any kind for any purpose;

(h) Upon termination of employment, a participant in the program shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon his account, or the participant may elect any other method of payment if approved by the Board of Trustees. The monthly benefits that were being paid into the fund during the period of participation shall begin being paid to the retiree;

(i) If a participant dies during the period of participation in the program, a lump sum payment equal to his account balance shall be paid to the participant's named beneficiary or, if none, to his estate; in addition, normal survivor benefits payable to the survivors of retirees shall be payable. If a participant terminates employment prior to the end of the specified period of participation, he shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus earned interest, or a true annuity based upon the participant's account balance, or he may elect any other method of payment if approved by the Board of Trustees. The monthly benefits that were being paid into the fund during the period of participation shall begin being paid to the retiree.

(j) If employment is not terminated at the end of the period specified for participation, payments into the account shall cease and no further interest shall be earned or credited to the individual account in the fund for the duration of employment past the end of the period specified for participation. Payment from the account shall not be made until employment is terminated, nor shall the monthly benefits being paid into the fund during the period of participation be payable to the individual until he terminates employment. Upon termination of employment, a member shall receive, at his option, a lump sum payment from the account equal to the payments to the account, plus interest earned by the individual account, or a true annuity based upon the member's account balance, or he may elect any other method of payment if approved by the Board of Trustees.

(k) (1) If an employee becomes disabled after the period of participation in the plan but while still an employee and his employment is terminated because of said disability, the employee shall receive, at his option, a lump sum payment from the

account equal to the payments to the account, plus earned interest, or a true annuity based upon his account balance, or the employee may elect any other method of payment if approved by the Board of Trustees. The monthly benefits that were paid into the fund during the period of participation shall begin being paid to the retiree.

(2) If an employee dies after the period of participation in the plan but while still an employee, a lump sum payment equal to his account balance shall be paid to the employee's named beneficiary or, if none, to his estate; in addition, normal survivor benefits payable to survivors of retirees shall be payable.

Sec. 3: The pension benefits and changes set forth herein are conditioned upon the use by the actuary of an eight percent (8%) or better annual fund earnings assumption.

Sec. 4: The Board of Trustees shall be authorized to create and distribute an annual supplemental pension benefit which shall be payable September 30, 2000 and then every September 30th thereafter. The supplemental pension benefit shall be calculated, administered, and distributed as follows:

- (a) The actuary for the pension fund shall determine the percentage rate of investment return on the pension fund assets during the twelve (12) month period ending each September 30th (annual investment return).
The rate determined shall be the rate reported in the most recent actuarial report submitted pursuant to Part VII of Chapter 112 of the Florida Statutes.
- b) If the annual investment return exceeds the actuary's annual fund earnings assumption rate of eight percent (8%), then a supplemental

pension distribution shall be made to eligible recipients. If the annual investment return equals or is less than the assumption rate, no supplemental pension distribution shall be made that year.

- c) The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10.0%) and the annual fund earnings assumption rate (8%) to a maximum annual investment return value of up to two percent (2.0%) as calculated on the retirees' portion of the pension fund's earnings.
- d) Eligible recipients for supplemental pension benefit distribution shall be:
 - 1. Current pension recipients who retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid;
 - 2. Surviving spouses (or other beneficiaries) of deceased pension recipients who had retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.
- e) The supplemental pension benefit fund shall be divided into equal shares, the number of which shall equal the aggregate number of eligible recipients. On an annual basis, one share shall be awarded and paid, when appropriate, to each eligible recipient.

Sec. 5: (a) Effective 10/1/99, Section 12.08(5)(a) of the pension plan shall be amended to read as follows:

(a) *Service-incurred disability benefit.* Until death or recovery from disability, whichever event shall first occur, the amount of such monthly disability benefits shall be equal to seventy-five percent (75%) of salary or wages of the firefighter at the time of final determination of disability.

(b) Effective 10/1/99, Section 12.08(5)(b) of the pension plan shall be amended to read as follows:

(b) *Non-service-incurred disability benefit.* Until normal retirement date, death or recovery from disability, whichever event shall first occur, the amount of such monthly disability benefit shall be equal to twenty-five percent (25%) of salary or wages of the firefighter at the time of final determination of disability. Commencing with the normal retirement date, the benefit shall be computed as a service-incurred disability benefit, the amount of which shall be equal to seventy-five percent (75%) of salary or wages of the fireman at the time of final determination of disability.

Sec. 6: The benefit improvements are subject to receipt of the actuarial impact statement consistent with the cost projections associated with the benefit improvements contained in Sections 1 (d) and 2 of this agreement, consistent with that indicated in written correspondence from the Pension Board actuary.

Sec. 7: The City and the Union agree that:

(a) The pension benefit improvements contained in Sections 1 (d) and 2 of this

agreement are: (i) either "minimum benefits" or "extra benefits" as those terms are used in section 175.351(1), Florida Statutes, and (ii) are and shall be reported in the annual reports filed by the pension fund with the Florida Division of Retirement for the fiscal years ending September 30, 2005 and thereafter as "qualifying benefit improvements" as that term is used in the Actuarial Confirmation of the Use of State Moneys page of said reports (for purposes of reference only, since the page and section numbers may change in future years, on the 2003 report, this was page 6.a, section C.(1))

(b) The cumulative balance of additional premium tax revenues that are remaining to be used to provide future 'minimum benefit' or 'extra benefit' improvements as of September 30, 2004 equal to \$1,270,975.40, as expected to be shown on page 6a, section C(4) of the 2004 Annual Report filed by the pension fund with the DOR, shall also be used to fund the above referenced pension benefit improvements .

(c) Pension plan investment expenses will continue to be paid directly from investment earnings.

Sec. 8: (a) The City and the Union recognize that certain members of the bargaining unit had intended to enter the DROP during calendar year 2004 based upon establishing eligibility under the following criteria: (1) attaining twenty-five (25) years of service anytime during 2004; (2) attaining age fifty (50) anytime during 2004; or (3) attaining twenty-three (23) years of service on or after October 1, 2004. The City and the Union further recognize that these members were forced to schedule and, in most cases, utilize annual leave that would have otherwise been converted to cash payment and included in their Average Final Compensation for pension calculation purposes.

The City and the Union agree that these members will be "made whole" for pension purposes by offering the following option.

(b) Within thirty (30) days of the effective date of this Amendment, members who attain eligibility based upon the criteria listed above may indicate (in writing) a prospective or retroactive date for their entry into the DROP, provided that such date does not otherwise negate their eligibility. The City shall determine the individual's balance of annual leave on January 1, 2004, plus any annual leave utilized between January 1, 2004, and the individual member's indicated date of entry into the DROP. For the purposes of this section only, this total amount of annual leave shall be referred to as the "maximum compensable bank of annual leave".

(c) At the time of their entry into the DROP, members will be permitted to borrow time against their future accrual of annual leave in an amount sufficient to (when added to their existing balance of unused annual leave) equal their maximum compensable bank of annual leave. The borrowed hours of annual leave will then be converted to cash payment for inclusion in the participant's average final compensation calculation in conjunction with all other appropriate forms compensation.

(d) Borrowed hours of annual leave will be repaid by the participant on an hour-for-hour basis at the normal rate of bi-weekly accrual of annual leave. In the event that the participant separates from the City prior to full repayment, then the cash value of any unpaid balance shall be withheld from the participant's final separation paycheck or, if necessary, from the participant's first pension benefit distribution check.

(e) DROP benefits for any retroactive period of participation will be paid at a variable-rate of return as determined by the Pension System's Board of Trustees until

such time as the participant is afforded additional options as provided in Section 2(f) above.

ARTICLE 48: DURATION OF AGREEMENT

Sec. 1: This Agreement shall be effective on October 1, 2005 and shall remain in full force and effect until September 30, 2008.

Sec. 2: Specific provisions as to effective dates, found in any of the various articles of this Agreement, shall not be affected by the provisions of Section 1, above. In case of conflict, the specific Article provisions shall prevail.

Sec. 3: This Agreement shall automatically be renewed from year to year thereafter unless either party shall have notified the other, in writing, by January 1, 2008 that it desires to modify the Agreement with negotiations to begin thirty days thereafter or such other date as is mutually agreed upon. The terms and conditions of employment reflected in this Agreement shall remain in full force and effect until replaced by either (1) a subsequently ratified replacement agreement or (2) actions resulting from the provisions of F.S. 447.403.

Sec. 4: The parties acknowledge the obligations created by F.S. 447.309(2)(a) and agree to initiate immediate impact bargaining in the event that the City Commission fails to appropriate sufficient amounts to fund the provisions of this collective bargaining agreement.

EXECUTION OF AGREEMENT

THIS AGREEMENT, having been duly ratified by vote of the members of the Bargaining Unit covered hereunder, and the City Commission of the City of Hollywood, is hereby executed with the signatures affixed hereto.

DATED this 29th day of September, 2004.

WITNESSES:

Eric Burenbarrow

As to Local 1375

**HOLLYWOOD PROFESSIONAL
FIRE FIGHTERS, LOCAL #1375,
INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS**

By: *Russell R. Hard*
President

Date: 12/14/2004

WITNESSES:

James M. Orr

As to the City

**CITY OF HOLLYWOOD, a municipal
corporation of the State of Florida**

By: *Alan S. Luchiani*
Mayor

Attest: *Patricia L. Gentry*
City Clerk

Approved: *Michael J. Ben*
City Manager

Approved: *James*
Finance Director

Approved: *J. J. 1*
Director of Human Resources

APPROVED AS TO FORM:

City Attorney

**APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF HOLLYWOOD, FLORIDA, ONLY.**

BY: *Daniel L. Abbott* 17
DANIEL L. ABBOTT
CITY ATTORNEY

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**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
BOARD OF TRUSTEES ~ MEETING MINUTES**

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hfpf.com
Friday, June 21, 2013 @ 8:15 a.m.

I. CALL TO ORDER

The regular meeting of the Board of Trustees of the City of Hollywood Firefighters' Pension Fund was called to order by Chairman Butler at 8:17 a.m.

II. ROLL CALL

Trustees:

Mark Butler (Chairman), Mark Payne (Secretary), Virgil Fernandez, Bill Huddleston, and Chris Pratt.

Members:

Joe Gambino, John Kellerman, George Geisler, Ernest Evans, Pete Hanna, Jan Pushkar, David Frohock, Rick Whippy, Gary Lehmann, Russ Chard, Robert Madge, Tom Dinges, Thomas Karl, Lou Carman, Joe Stolarz and Joe Rohan.

Others:

Jennifer Kerr (Plan Administrator), Steve Cypen & Alison Bieler (Plan Attorneys), Mike Welker & Jon Breth (Investment Consultant), Neesha Hope (City Finance), Mike Stanley, Fiduciary Management Inc., and Chris Crawshaw, CEO, Matt Swaim, Portfolio Manager, and Bruce Zesser, Portfolio Manager, Advisory Research.

III. APPROVAL OF MINUTES

May 17, 2013 – Meeting Minutes (*)

Trustee Huddleston moved to approve the regular meeting minutes of May 17, 2013. Trustee Payne seconded the motion. All were in favor.

IV. CONSENT AGENDA

For Ratification Warrant #6635

a. Mike Briosi – Exit DROP – Monthly Benefit - 6/25/13	\$7,296.20
b. Joseph C. Fisher – Exit DROP – Monthly Benefit - 6/25/13	\$6,452.61
c. Larry Allwine – Exit DROP – Monthly Benefit – 6/25/13	\$6,967.02
d. Berger Singerman (Statement No. 125532-A)	\$17,988.40
e. The Bogdahn Group (Invoice #8722 & #9056)	\$14,575.00
TOTAL	\$53,279.23

Trustee Pratt moved to approve Warrant #6635. Trustee Payne seconded the motion. All were in favor.

V. LEGAL REPORT

No legal update.

**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
BOARD OF TRUSTEES ~ MEETING MINUTES**

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hfpf.com

Friday, June 21, 2013 @ 8:15 a.m.

VI. OLD BUSINESS

A. 13th Check

Ms. Bieler stated that based upon how the 13th check provision of the pension plan has evolved over time, there are 3 groups of retirees requiring different treatment:

Group 1: Anyone who retired or who was eligible retire prior to July 15, 2009, and his or her beneficiaries, is eligible to receive a 13th check. Retirement includes anyone who entered the DROP prior to July 15, 2009.

Group 2: Anyone who retired or who was eligible to retire on or after July 16 2009, and before October 1, 2011, and his or her beneficiaries, is eligible to receive a 13th check subject to the following two conditions. First, the 13th check amount cannot exceed \$12,000 per year. Second, the 13th check will only be paid to this group "after such time as the system has recovered any aggregate losses experienced beginning with the actuarial experience on or after October 1, 2008. If the plan has failed to recover any such aggregate losses, then no supplemental benefit shall be paid." (See Section 33.060 of the City Code). Retirement includes anyone who has entered the DROP.

Group 3: Anyone who retired or who was eligible to retire on or after October 1, 2011, is not eligible to receive a 13th check.

Trustee Pratt moved to direct the Plan's actuary to determine whether anyone in either Group 1 or 2 is entitled to receive 13th check based upon the pension fund's performance for the last 12 month reporting period ending September 30th, then to direct the actuary to review each prior 12 month period until the last time a 13th check was paid to make the same determination. Trustee Huddleston seconded the motion. All were in favor.

B. Administrator Salary Review (H)

The Board proposed a new three year employment contract for Ms. Kerr beginning April 1, 2013 and ending March 31, 2016. The Board increased Ms. Kerr's salary by 7.5% effective April 1, 2013 and 3% each April thereafter. The Board included a 5% employer contribution to a deferred compensation plan for year one and two, and 10% for year three. The Board offered Ms. Kerr a cash out of unused sick time at the end of each year and requests Ms. Kerr to report her sick days on a quarterly basis. Ms. Bieler was directed to prepare the new employment contract. The Board also asked for Ms. Kerr to hold office hours for members who wish to meet in person.

VII. NEW BUSINESS

A. Disbursements – May 2013 (*)

Trustee Huddleston moved to approve the Disbursements for May 2013. Trustee Payne seconded the motion. All were in favor.

B. Loan Request – June 2013 (H)

Trustee Payne moved to approve the loan request for June 2013. Trustee Pratt seconded the motion. All were in favor.

VIII. OTHER REPORTS

**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
BOARD OF TRUSTEES ~ MEETING MINUTES**

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hfpf.com
Friday, June 21, 2013 @ 8:15 a.m.

A. Investment Consultant

Jon Breth discussed the May 2013 Flash Report. The fund was up 10.03% for the fiscal year compared to the policy index of 8.44%.

B. Administrator

- a. Checking Account Reconciliation – 4/30/13 (*)
- b. Checking Account Reconciliation – 5/31/13 (*)
- c. DROP Account Reconciliation – Ms. Kerr stated she performed a preliminary audit of DROP transactions and found issues.

Trustee Payne moved to audit DROP account capped at \$5,000. Seconded by Trustee Pratt. All were in favor.

Chairman Butler called a 5 minute recess.

The Board reconvened at 10:19 am. The administrator reported to the Board the auditor quoted the DROP audit work from \$5,000 to \$7,500.

Trustee Payne moved to amend the original motion to cap the audit work at \$7,500 provided an itemized invoice is provided to the Board. The motion was seconded by Trustee Pratt.

IX. PRESENTATIONS (~1:00 PM)

- A. Mike Stanley, Fiduciary Management Inc. – All Cap Equity (H)
- B. Advisory Research – All Cap Value Equity (H)

The Board requested Fiduciary Management Inc. to match the Advisory Research Fee and if this is done will consider hiring the firm.

X. INPUT FROM ACTIVE & RETIRED PLAN MEMBERS

XI. TRUSTEES' CONCERNS

XII. NEXT MEETING DATES

July 26, 2013 - Meetings are generally held at 8:15 a.m. at 310 South 62nd Ave. ~ Hollywood, FL 33023 the last Friday of every month.

XIII. ANNOUNCEMENTS

- FPPTA Annual Conference
June 23 – 26, 2013 ~ Omni Orlando Resort at ChampionsGate ~ Orlando, FL

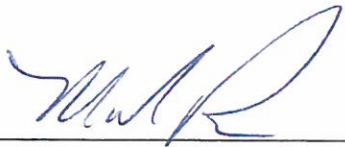
**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
BOARD OF TRUSTEES ~ MEETING MINUTES**

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hfpf.com
Friday, June 21, 2013 @ 8:15 a.m.

XIV. ADJOURNMENT

There being no further business, Trustee Pratt moved to adjourn at 1:18 p.m. Trustee Payne seconded the motion. All were in favor.

Respectfully Submitted,



Mark Payne, Secretary

MP:jk

Cc: Board of Trustees
Stephen H. Cypen, Board Attorney
*Patricia A. Cerny, City Clerk
Allan Fallik, Deputy City Attorney
Yvette Scott, Budget
*Gail Reinfeld, HR Director
*Fire Marshal's Office
*Fire Chief's Office

Matthew Lalla, Finance Director
*Douglas Hewett, City Manager
Bogdahn Consulting, LLC
*Combat Rescue
*Firestations

*Hard copies requested.

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CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND**BOARD OF TRUSTEES ~ MEETING MINUTES**310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hfpf.com

Friday, July 26, 2013 @ 8:15 a.m.

I. CALL TO ORDER

The regular meeting of the Board of Trustees of the City of Hollywood Firefighters' Pension Fund was called to order by Chairman Butler at 8:25 a.m.

II. ROLL CALLTrustees:

Mark Butler (Chairman), Mark Payne (Secretary), and Bill Huddleston.

Members:

Chuck Johnson, Russ Chard, Thomas Karl, Tom Dinges, Don Perdue, George Haskell, Ernest Evans, Rafael Fuentes, Alan Wasserman, Robert S. Madge, and Rick Barnett.

Others:

Jennifer Kerr (Plan Administrator), Steve Cypen & Alison Bieler (Plan Attorneys), Amed Avila (Fiduciary Trust) and Neesha Hope (City Finance).

III. APPROVAL OF MINUTESJune 21, 2013 – Meeting Minutes (*)

Trustee Huddleston moved to approve the regular meeting minutes of June 21, 2013. Trustee Payne seconded the motion. All were in favor.

IV. CONSENT AGENDA

For Ratification Warrant #6636

a. Robert Arndt – Exit DROP – Monthly Benefit - 7/25/13	\$8,056.63
b. Sawgrass Asset Management (2Q13)	\$21,394.00
c. Berger Singerman (Statement No. 126670-A)	\$1,414.14
d. Cavanaugh Macdonald (March 2013)	\$3,730.00
TOTAL	\$34,594.77

Trustee Payne moved to approve Warrant #6636. Trustee Huddleston seconded the motion. All were in favor.

V. LEGAL REPORT**A. Plan Administrator Contract (H)**

Ms. Bieler discussed the terms of Ms. Kerr's employment contract, including the deferred compensation plan, salary percentages and effective dates.

CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND

BOARD OF TRUSTEES ~ MEETING MINUTES

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hfpf.com

Friday, July 26, 2013 @ 8:15 a.m.

VI. OLD BUSINESS

A. 13th Check (*)

Trustee Payne moved to pay \$18,846.90 (the full amount) of the 13th check to all eligible retirees. Trustee Huddleston seconded the motion. All were in favor.

B. 2012 Actuarial Valuation (H)

Trustee Huddleston moved to approve the revised 2012 Actuarial Valuation. Trustee Payne seconded the motion. All were in favor.

C. DROP Account Reconciliation

Trustee Huddleston moved to direct the Auditor to audit the DROP account since inception and provide a cap for service fees up to \$7,500. Trustee Payne seconded the motion. All were in favor.

VII. NEW BUSINESS

A. Disbursements – June 2013 (*)

Trustee Payne moved to approve the Disbursements for June 2013. Trustee Huddleston seconded the motion. All were in favor.

B. Death Check (*)

Trustee Payne moved to approve the \$695 expense for death audit check software from the Berwyn Group. Trustee Huddleston seconded the motion. All were in favor.

VIII. CUSTODIAN

Amed Avila, Asst. Vice President, Relationship Manager, Fiduciary Trust International introduced himself to the Board and discussed his firm's role as custodian for the Plan.

IX. OTHER REPORTS

A. Administrator

a. June 2013 Flash (*)

b. Checking Account Reconciliation – 6/30/13 (*)

X. INPUT FROM ACTIVE & RETIRED PLAN MEMBERS

XI. TRUSTEES' CONCERNS

XII. ANNOUNCEMENTS

Intercontinental Southeast Investor Conference ~ Friday, October 25, 2013 ~ The Westin Diplomat Resort & Spa ~ Hollywood, FL

CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND

BOARD OF TRUSTEES ~ MEETING MINUTES

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hfpf.com

Friday, July 26, 2013 @ 8:15 a.m.

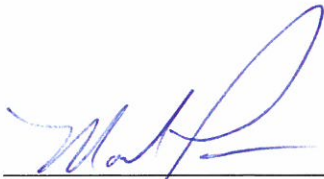
XIII. NEXT MEETING DATES

August 16, 2013 - Meetings are generally held at 8:15 a.m. at 310 South 62nd Ave. ~ Hollywood, FL 33023 the last Friday of every month.

XIV. ADJOURNMENT

There being no further business, Trustee Huddleston moved to adjourn at 12:18 p.m. Trustee Payne seconded the motion. All were in favor.

Respectfully Submitted,



Mark Payne, Secretary

MP:jk

Cc: Board of Trustees
Stephen H. Cypen, Board Attorney
*Patricia A. Cerny, City Clerk
Allan Fallik, Deputy City Attorney
Yvette Scott, Budget
*Gail Reinfeld, HR Director
*Fire Marshal's Office
*Fire Chief's Office

Matthew Lalla, Finance Director
*Douglas Hewett, City Manager
Bogdahn Consulting, LLC
*Combat Rescue
*Firestations

*Hard copies requested.

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CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND

BOARD OF TRUSTEES ~ MEETING MINUTES

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Tuesday, June 24, 2014 @ 1:30 p.m.

I. CALL TO ORDER

The regular meeting of the Board of Trustees of the City of Hollywood Firefighters' Pension Fund was called to order by Chairman Butler at 1:39 PM.

II. ROLL CALL

Trustees:

Mark Butler (Chairman), Derek Fleischner (Secretary), Mark Payne, Brian Wilkie and Fire Chief Eric Busenbarrick.

Members, Retirees & Beneficiaries:

Don Barfield, Rick Barnett, Joe Barney, Jan Barney, Dan Blundy, Joseph Bronstein, Al Burchardt, Russ Chard, Madi Clark, Bill Clark, Dina Clark Shaw, Paul Comeau, Tom Coughlin, Ralph Curtis, Billy Curtis, Diana DeAbreu, Dave Deunsing, Edward Devita, Tom Dinges, Jack Downs, Judy Downs, Frank Emiliano, Ernest Evans, Tony Frances, Gloria Frances, Rafael Fuentes, Joe Gambino, George Geisler, Linda Geisler, Eric Guerrero, Pat Hall, Michael Hapsas, Robert Hay, Herb Helfen, Chuck Johnson, John Kellerman, Glenda Kellerman, David Knott, Gary Lehmann, Mitchell Li, Eric Lombardi, Daniel McCarry, Ed Moran, Don Perdue, Jan Pushkar, Norm Rechtman, Travis Rinehart, Joe Rohan, Margaret Rose, Joe Stolarz, Amelia Stolarz, Daniel Swick, Tony Vinas, Paul Watson, and Rick Whippy.

Others:

Jennifer Kerr (Plan Administrator), Steve Cypen (Plan Attorney), Neesha Bajere (City Finance Department), and Brad Heinrichs (Actuary).

III. TRUSTEE ELECTION

Brian Wilke ran unopposed and as a result was elected as Member Trustee.

IV. APPROVAL OF MINUTES

A. May 29, 2014 – Meeting Minutes (*)

Approval of the May 29, 2014 was deferred until the next meeting.

V. APPROVAL OF WARRANTS

- A. 6652
- B. 6653
- C. 6654
- D. 6655
- E. 6656
- F. 6657
- G. 6658

Trustee Payne moved approval for all warrants except 6655. Trustee Fleischner seconded the motion. All were in favor.

The invoice included in Warrant 6656 from Ken Kornheisel of Oakwater Technologies in the amount of \$21,100 was discussed. Chairman Butler provided details on the matter. Since the last meeting, Mr. Kornheisel took the pension website and email down. Chairman Butler and Mr. Cypen urged Mr. Kornheisel to get the website and email up and running. Mr. Kornheisel presented an invoice in the amount of \$21,100 and stated once it had been paid he would return the website and email back to normal. Chairman Butler stated that Mr. Kornheisel hourly rate increased from \$125 to \$250 with no apparent explanation and the website hosting fee had been backdated to January 2012.

Mr. Cypen explained that he and the Chairman had been on the phone regularly with Mr. Kornheisel almost daily for three weeks and there is still no resolution. Mr. Cypen strongly recommends seeking the

CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND

BOARD OF TRUSTEES ~ MEETING MINUTES

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Tuesday, June 24, 2014 @ 1:30 p.m.

appropriate counsel to look into the situation and take action against the person or persons who are responsible and to make the Board whole.

Trustee Payne moved to authorize the Chairman and general counsel to investigate the possibility of obtaining adequate counsel to evaluate the issue. Trustee Busenbarrick seconded the motion. All were in favor.

Trustee Fleischner moved to approve Warrant 6656 excluding the invoice for Oakwater Technologies. Trustee Payne seconded the motion. All were in favor.

VI. NEW BUSINESS

A. Public Records Request Policy (*)

Trustee Busenbarrick moved to adopt the Public Records Request Policy. Trustee Fleischner seconded the motion. All were in favor.

B. DROP Activity – May 2014 (*)

Trustee Payne moved to approve the DROP Activity for a May 2014. Trustee Wilkie seconded the motion. All were in favor.

C. Disability Procedure & Request (*)

Mr. Cypen is not comfortable with the current procedure. He will provide an updated procedure to follow. Chief Busenbarrick will check to see if the applicant is eligible to work for the department in any capacity at the same rate of pay. Once chief lets us know he doesn't have spot then the Board can proceed with our hearing and begin requesting medical records. Mr. Cypen asked Ms. Kerr to make sure all medical records are intact for the dates of service provided.

VII. LEGAL REPORT

None.

VIII. ACTUARY REPORT

Brad Heinrichs, actuary with Foster & Foster introduced himself to the Board. Two things to accomplish today (1) settle on actuarial assumptions to be utilized in the October 1, 2013 actuarial valuation report (2) to have a discussion of the analysis the Board asked him to do at the last meeting with regards to the 13th check.

Mr. Heinrichs stated he had a conversation with the Division of Retirement with regards to the 2012 Supplemental Check since the last meeting. The State Actuary, Doug Beckendorf called Mr. Heinrichs to ask about the status of the 2013 report. Mr. Heinrichs explained to Mr. Beckendorf that it has not been completed due to issues replicating the 2012 report.

Mr. Heinrichs referred to his letter dated June 23, 2014. He explained that prior to performing the analysis to value the 13th check, several assumption changes are anticipated to be made in conjunction with the 2013 actuarial valuation. The first two are based on a schedule of changes previously approved by the Board, reducing the investment return assumption to 7.6% and increasing the Salary Scale based on the prior actuary's recommendations. Mr. Heinrichs also recommends assuming that administrative expenses for the upcoming year are equivalent to those that were actually incurred in the prior year. The previous actuary was assuming expenses that were anywhere from half to two-thirds of the actual expenses incurred. This generated consistent actuarial losses in the plan.

Mr. Heinrichs also recommends changing the assumption for mortality. As of October 1, 2012 the prior actuary was using the 1983 Group Annuity Mortality table for healthy lives and the 1951 Group Annuity Mortality table projected to 1970 using Scale C and set back 5 years for females. Mr. Heinrichs explained these tables are very outdated; the State remarked several years ago that they would no longer approve valuation reports using these outdated tables. Mr. Heinrichs recommends changing the mortality

CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND**BOARD OF TRUSTEES ~ MEETING MINUTES**310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Tuesday, June 24, 2014 @ 1:30 p.m.

assumption for healthy lives to be the RP2000 Combined Healthy table with no projection for healthy lives and the RP2000 Disabled table for disabled lives.

Trustee Fleischner moved to change the mortality assumption to the RP2000 Combined Healthy table with no projection for healthy lives and RP2000 Disabled table for disabled lives. Trustee Payne seconded the motion. All were in favor.

Trustee Payne moved to use the administrative cost incurred in the previous year. Trustee Fleischner seconded the motion. All were in favor.

Mr. Heinrichs confirmed with the prior actuary that there is currently no liability valued for the 13th check. Mr. Heinrichs explained this is inherently the same as assuming that the market return will always be equal to the assumption of 7.6%. Based on any length of history of returns, Mr. Heinrichs stated, it is clear this is not a reasonable assumption as the actual market return varies year to year.

Mr. Heinrichs further explained, as it is written, it appears that the Ordinance is unclear on certain issues regarding the 13th check. (1) Is the rate of investment return chosen on an actuarial or market value basis? (2) Should the DROP Balances be included when determining the amount of assets attributable for distribution of the 13th Check? (3) Is the assumed rate of return (currently 7.6%) the hurdle rate for this purpose or is it 8.0%? Currently, the 13th Check is determined using the market value of assets, including the DROP Balances and using the current actuarial assumed rate of return.

Mr. Heinrichs discussed the table on Page 4 of his letter dated June 23, 2014. For the Prior Year (2012) Valuation the Estimated Required City Contribution was \$10,722,000 or 100.4% of payroll. The Unfunded Actuarial Accrued Liability was \$128,770,000 and the Funded Ratio (excluding DROP Assets) was 41.2%. Mr. Heinrichs pointed out that the prior actuary was excluding DROP Assets for the annual valuation however they were including DROP Assets for the 13th Check calculation. If DROP Assets were included in the 2012 Valuation, the Funded Ratio would have been 55.9%.

Foster & Foster analyzed the returns for the Hollywood Firefighters' Pension Fund (limited to the last 10 years), as well as the returns for other Florida pension funds for at least 20 years. Mr. Heinrichs advised that while the past is no guarantee of the future, it was determined over time the fund is likely to earn approximately 0.8% less than if the 13th check provision did not exist. For the purposes of this analysis, Foster & Foster calculated an additional accrued liability equal to \$19.2 million to account for this provision.

Mr. Heinrichs explained that since DROP Balances have also been included in the calculation of the 13th check, his firm added an additional accrued liability equal to \$30.8 million. This amount was obtained by increasing the previous liability by the anticipated leverage created by including DROP Assets in the calculation.

Mr. Heinrichs stated his firm also analyzed the impact of using actuarial (smoothed) returns versus market returns. In reviewing prior returns, Foster & Foster determined that overall investment returns would be 0.2% higher if actuarial (instead of market) returns were used. This created an additional liability of \$14.2 million if DROP Balances are not included or \$22.7 million if DROP Balances continue to be included in assets for purposes of determining the 13th check amounts.

Mr. Heinrichs discussed the 13th Check Valuation Alternatives. If he were to continue the same as the prior actuary, i.e. using market return including DROP balances, the estimated City contribution would be 99.9% of payroll or \$13.9 million (from \$10.7 million in 2012). Also, the funded ratio would have dropped 5.2%. This would result in an increase to the City in the amount of \$2.7 million.

Using the Market Return and excluding DROP Balances, the estimated City contribution would be 94.5% of payroll or \$13.2 million. Some leverage would be lost and the amount of the 13th check would be less. This method would result in an increase in City cost of \$1.9 million.

**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
BOARD OF TRUSTEES ~ MEETING MINUTES**

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Tuesday, June 24, 2014 @ 1:30 p.m.

Using the Actuarial Return and including DROP Balances, the estimated City contribution would be 94.9% of payroll or \$13.3 million. Actuarial returns smooth returns over 5 years which takes the volatility out of the market returns. This method would result in an increase in the City cost of \$1.95 million.

Using the Actuarial Return and excluding DROP Balances, the estimated City contribution would be 90.9% of payroll or \$12.7 million. This method would result in an increase in the City cost of \$1.4 million.

Mr. Cypen explained to the Board of Trustees that any changes in interpretation under the advice of plan advisors, as long as it remains consistent and reasonable and makes sense over time, is legally defensible. Mr. Heinrichs stated that the Trustees are just now becoming aware that this provision is costing the City \$2.7 million more than they thought. Mr. Heinrichs further explained that as long as he is the plan actuary, he will not sign a report that fails to account for the 13th check that will happen in the future.

Mr. Heinrichs explained that the changes made in 2009 did not cap the pool of assets to be distributed for the 13th check. It just excluded some people from getting it and the amount they could get. The total amount paid out would not change.

Trustee Fleischner moved to use the assumed rate of return (currently 7.6%) as the hurdle rate. Trustee Payne seconded the motion. All were in favor.

Trustee Fleischner moved to use the actuarial return. Trustee Payne seconded the motion. Ayes: Trustee Fleischner, Trustee Payne and Trustee Wilkie. Nays: Chairman Butler and Trustee Busenbarrick.

Trustee Fleischner moved for purposes of calculating the asset pool eligible for distribution of a 13th check, only excess earnings (up to 2%) over the assumed rate of return (currently 7.6%) for assets solely attributable to currently eligible members of the 13th check are to be considered. Trustee Payne seconded the motion. All were in favor.

IX. ADMINISTRATOR REPORT

SunCU Account Reconciliation – May 2014 (*)

A. Database update (*)

Ms. Kerr informed the Board that the new database is complete. She is working with her assistant to reconcile each DROP statement and will be sending statements out one at a time.

B. Loan Application Forms (*)

Ms. Kerr provided the Trustees the updated loan application for Planned Retirement and DROP.

X. PUBLIC COMMENTS

XI. ANNOUNCEMENTS

➤ FPPTA 30th Annual Conference ~ June 29 - July 2, 2014 ~ Hilton Bonnett Creek, Orlando

XII. NEXT MEETING DATES

June 27, 2014 - Meetings are generally held at 8:15 a.m. at 310 South 62nd Ave. ~ Hollywood, FL 33023 the last Friday of every month.

CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND

BOARD OF TRUSTEES ~ MEETING MINUTES

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Tuesday, June 24, 2014 @ 1:30 p.m.

XIII. ADJOURNMENT

There being no further business, Trustee Payne moved to adjourn at 5:56 p.m. Trustee Fleischner seconded the motion. All were in favor.

Respectfully Submitted,


Derek Fleischner, Secretary

DF:jk

Cc: Board of Trustees
Stephen H. Cypen, Board Attorney
*Patricia A. Cerny, City Clerk
Allan Fallik, Deputy City Attorney
Yvette Scott, Budget
*Fire Marshal's Office
*Fire Chief's Office

Matthew Lalla, Finance Director
*Cathy Swanson-Rivenbark, City Manager
Bogdahn Consulting, LLC
*Combat Rescue
*Firestations

*Hard copies requested.

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CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
BOARD OF TRUSTEES MEETING MINUTES

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com
 Thursday, July 24, 2014 @ 8:15 a.m.

I. CALL TO ORDER

The regular meeting of the Board of Trustees of the City of Hollywood Firefighters' Pension Fund was called to order by Chairman Butler at 8:23 a.m.

II. ROLL CALL

Trustees:

Mark Butler (Chairman), Derek Fleischner (Secretary), Mark Payne, Brian Wilke and Fire Chief Eric Busenbarrick.

Members, Retirees & Beneficiaries:

Don Barfield, Jan Barney, Joe Barney, Robert Bazy, Dan Blundy, Christopher Boyle, Lou Carman, Rocio Cervini, Russ Chard, Martin Cooper, Tom Coughlin, Tom Dinges, Jack Downs, Judy Downs, Dean Eyerman, Joe Fisher, George Geisler, Pete Hanna, George Haskell, Robert Hay, Herb Helfen, William Jones, Thomas Karl, John Kellerman, Glenda Kellerman, Gary Lehman, Robert Madge, Bonnie Mott, Steve Newmark, Don Perdue, Jan Pushkar, Norm Rechtman, Dennis Rudasill, Alan Wasserman, Paul Watson.

Others:

Jennifer Kerr (Plan Administrator), Steve Cypen (Plan Attorney), Neesha Bajere (City Finance Department), Brad Heinrichs (Actuary), Richard Sicking (general counsel for the Florida Professional Firefighters), Alan Fallick (City Attorney), and Matt Lalla (City Finance Director).

III. APPROVAL OF MINUTES

Trustee Wilke moved to approve the minutes of May 29, 2014. Trustee Busenbarrick seconded the motion. All were in favor.

IV. APPROVAL OF WARRANTS

Trustee Busenbarrick moved to ratify Warrant #6660. Trustee Wilk seconded the motion. All were in favor.

Trustee Fleischner moved to ratify Warrant #6661. Trustee Busenbarrick seconded the motion. All were in favor.

Trustee Busenbarrick moved to ratify Warrant #6662. Trustee Fleischner seconded the motion. All were in favor.

Trustee Wilkie moved to ratify Warrant #6663. Trustee Busenbarrick seconded the motion. All were in favor.

V. NEW BUSINESS

A. DROP Activity – 12 Months Ending June 30, 2014 (*)

Ms. Kerr discussed the report.

B. August COLAs (*)

Trustee Payne moved to approve the COLA for August 2014. Trustee Wilkie seconded the motion. All were in favor.

C. Disability COLAs

Mr. Cypen explained there should be no COLA for a disability pension. Ms. Kerr stated that all disability pensioners are receiving a COLA. Art Pinto called the pension office to confirm his expected pension

**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
BOARD OF TRUSTEES - MEETING MINUTES**310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Thursday, July 24, 2014 @ 8:15 a.m.

increase in February 2015 from 25% to 75%. However Ms. Kerr found he had been receiving COLAs since his date of retirement.

Trustee Fleischner motioned to ratchet the benefit down for Art Pinto to where it should be and recover full amount he's been overpaid. Trustee Payne seconded the motion. All were in favor.

VI. OLD BUSINESS

Ms. Kerr stated she received a disability application for Adam App. The next step is to collect medical records and refer to 3 IMEs. Richard Sicking, attorney for Adam App asked that the Board work with the City's human resource department in regards to his workers compensation. Mr. Cypen reminded the administrator to redact any confidential member information.

VII. LEGAL REPORT**A. Division of Retirement Response to 13th Check (*)**

Mr. Cypen stated that the actuarial issues dominate the legal issues, in other words if actuary cannot certify if 13th check is due then nothing else matters. Mr. Heinrichs stated there is legal language in the Ordinance, that cumulative gains must exceed losses in order for a 13th check to be payable. In fact, cumulative gains do not exceed cumulative losses. In Mr. Cypen's letter dated February 25, 2014, he noted this provision does not impact a majority of the people who had already retired when this new Ordinance change had been put into effect in 2009. So cumulative gains do not need to exceed cumulative losses for a group of members. Mr. Heinrichs further stated that he believes the City's position is that the Ordinance change in 2009 precludes anybody from receiving a 13th check until cumulative gains exceed losses, including the 13th check paid out last year. Mr. Heinrichs asked Mr. Cypen if he can confirm that cumulative gains do not need to exceed losses for everyone in order for a 13th check to be permissible.

Chairman Butler asked Mr. Alan Fallick, Deputy City Attorney, if he would like to make any comments. Mr. Fallick stated there is case law that says this type of benefit is a contingent benefit which is not necessarily subject to the general rule that you can't take away benefits away from people who have retired.

B. Documentary Stamp Tax (Florida Department of Revenue)

Mr. Cypen stated in the process of preparing documentation for loans, the issue of documentary stamp tax has come up. Apparently doc stamp tax have not been collected from borrowers and remitted to state of Florida as required by law. Mr. Cypen advised the Board not to complete a voluntary disclosure, only going forward with any new loans issued.

VIII. ACTUARY REPORT**A. 2013 Supplemental Distributions (13th Check)**

Mr. Heinrichs outlined his letter dated July 24, 2014 in regards to the 13th check calculation. The calculation was revised to limit the asset pool. The amount of the 13th check, if payable, will be \$8,997.35. The 13th check for last year was around \$18,850. The way it was calculated before was that all of the assets and all of the retiree liability were considered. The excess return on all of the assets was bigger than 2% of the liabilities. Last year there were 161 eligible members for the 13th check. This year there are 177 eligible members. The asset pool was around \$1.6 million this year and around \$3 million last year. Mr. Heinrichs commented if the Board kept the prior interpretation that 13th check would have continued to increase as assets increase. Now he would expect that the amount of the 13th check will not increase by much, if any, and eventually start to decline over time.

Mr. Heinrichs stated his letter does not confirm the 13th check is payable.

CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND BOARD OF TRUSTEES - MEETING MINUTES

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Thursday, July 24, 2014 @ 8:15 a.m.

B. 2013 Actuarial Valuation

Mr. Heinrichs explained this actuarial valuation reports develops the City's funding requirements for the fiscal year October 1, 2014 - September 30, 2015. The total required contribution increased from October 1, 2013 to October 1, 2014 by \$2.3 million, from \$13.1 million to \$15.4 million. Member contributions are \$1.2 million versus \$846,618 for the prior year. Mr. Heinrichs does not understand how last year's requirement was derived and thinks it could be based on the wrong payroll information. Expected state contributions are \$1.5 million, leaving the required City contribution at \$12,680,765, up from last year by \$1.9 million.

Mr. Heinrichs explained that overall the Plan experienced net unfavorable actuarial experience on the basis of the Plan's actuarial assumptions. The unfavorable experiences included salary increases, lower than expected inactive mortality and the payment of the 2012 Supplemental Distribution. Partially offsetting these losses was the effect of an investment return of 11.0% (Actuarial Asset Basis), which exceeded the 7.70% assumption.

Mr. Heinrichs explained there were several assumption changes since the prior valuation which caused an increase in the Total Required Contribution. Specifically the mortality assumption, salary scale, administrative expense and investment return assumptions were changed. In addition a liability was added associated with the ongoing cost of the Supplemental Distribution.

Trustee Fleischner moved to approve the City of Hollywood Firefighters' Pension Fund Actuarial Valuation Report as of October 1, 2013. Trustee Payne seconded the motion. All were in favor.

Trustee Fleischner moved to pay the 2013 Supplemental Distribution in the amount of \$1,588,991 for 177 members (\$8,977.35 each). Trustee Wilkie seconded the motion. All were in favor.

IX. ADMINISTRATOR REPORT

A. June 2014 Flash (*)

Ms. Kerr provided the performance update as of June 30, 2014. The total fund has earned 11.8% fiscal year to date compared to the policy benchmark of 10.9%. US equity outperformed in the second quarter and is slightly behind the benchmark on a YTD basis. One main factor hurting the portfolio YTD has been the strong returns of REIT stocks where both GAMCO and Advisory Research are underweight. Within international RBC continues to outperform but Barings has outperformed in the first two months of the second quarter. Paperwork for the Barings \$16.5 million redemption is complete and the fund should payout redemption proceeds in early August. WCM contracts are nearing completion and should be done by August 1, 2014 at the latest. Total equity is in line with the policy benchmark for the FYTD period. Total fixed income continues to outperform the policy index, up 6.6% vs 3.0% for the policy index FYTD. All segments of the fixed income allocation continue to add value. Real estate had another strong quarter, up 3.3% and is now up 11.3% FYTD. The JP Morgan allocation was rebalanced back to target, about \$25 million. The proceeds of the small redemption were invested with Garcia Hamilton and will fund capital calls to Crescent. The new allocation to Westwood also continues to perform well, and is ahead of its benchmark since inception. Overall asset allocation remains in line with the plan's long term targets and at this time there is no required rebalancing. Also, Crescent documents are in the process of being completed.

CITY OF HOLLYWOOD FIREFIGHTERS PENSION FUND BOARD OF TRUSTEES - MEETING MINUTES

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Thursday, July 24, 2014 @ 8:15 a.m.

B. COLA History/Breaks (*)

Ms. Kerr provided a report showing all historical COLA breaks.

C. Account Balance Report (*)

D. SunCU Account Reconciliation – June 2014 (*)

E. CAPIS Commission Recapture Agreement (H)

F. Website Update

Ms. Kerr provided an update on the new website.

G. Server Replacement

Trustee Payne moved to approve up to \$2,500 for the server replacement. Trustee Fleischner seconded the motion. All were in favor.

X. PUBLIC COMMENTS

Jack McMillan asked the Trustees to be respectful when referring to deceased retirees. Bob Madge requested a policy & procedural manual and presented a formal public records request for the Board credit card policy.

XI. ANNOUNCEMENTS

- IFEBP 60th U.S. Annual Employee Benefits Conference ~ October 12 - 15, 2014
 - Boston Convention & Exhibition Center, Boston, MA
- NCPERS 2014 Public Safety Employees Pension & Benefits Conference ~ October 26 - 29, 2014
 - Westin New Orleans Canal Place New Orleans, LA
- November – DOR

XII. NEXT MEETING DATES

August 15, 2014 - Meetings are generally held at 8:15 a.m. at 310 South 62nd Ave. ~ Hollywood, FL 33023 the last Friday of every month.

XIII. ADJOURNMENT

There being no further business, Trustee Busenbarrick moved to adjourn at 12:09 p.m. Trustee Payne seconded the motion. All were in favor.

Respectfully Submitted,


Derek Fleischner, Secretary

DF:jk

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Touby, Chait & Sicking, PL

FOR THE WORKERS.COM

ATTORNEYS AT LAW

Mark A. Touby*
Richard E. Chait
Richard A. Sicking*
Sylvia C. Mora
Mireya DeJesus

2030 S. Douglas Road
The Minorca - Suite 217
Coral Gables, FL 33134
Telephone: 305-442-2318
Facsimile: 305-442-2319

*Board Certified in Workers' Compensation

March 10, 2015

Mark L. Butler, Chairman, Board of Trustees
City of Hollywood Firefighters' Pension Fund
310 South 62 Avenue
Hollywood, FL 33023

Re: 13th Check

Dear Mr. Butler:

I have been asked by retirees to send you this letter in regard to the 13th check.

The minutes of the meeting of June 24, 2014, reflect:

Trustee Fleischner moved for purposes of calculating the asset pool eligible for distribution of a 13th check, only excess earnings (up to 2%) over the assumed rate of return (currently 7.6%) for assets solely attributable to currently eligible members of the 13th check are to be considered. Trustee Payne seconded the motion. All were in favor.

Subsequently, there was a letter addressed to Keith Brinkman of the Division of Retirement dated February 25, 2014, from Mr. Cypen which states that the 2003 Ordinance provided:

Sec. 12.26 Supplemental pension benefit.

* * *

3. The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10%) and the annual fund earnings assumption rate of eight percent (8%) to a maximum annual investment return value of up to two percent (2%) as calculated on the eligible Retirees; portion of the Fund's earnings.

(February 25, 2014 letter, page 2)

Mark L. Butler, Chairman
March 10, 2015
Page -2-

This is incorrect. The 2003 Ordinance made no mention of "...as calculated on the eligible Retirees' portion of the Fund's earnings".

I attach a copy of City of Hollywood Ordinance No. 0-2003-20 which provides on page 33:

Sec. 12.26. Supplemental pension benefit.

* * *

(3) The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10%) and the annual fund earnings assumption rate of eight percent (8%) to a maximum annual investment return value of up to two percent (2%) as calculated on the Retirees' portion of the Fund's earnings.

I also attach City of Hollywood Ordinance No. 0-2010-30. Neither does it provide for the language referred to in the February 25, 2014, letter. Rather, the language is identical to the 2003 ordinance.

It is not until the City of Hollywood Ordinance No. 0-2011-26 that the language is changed to the language which is contained in the February 25, 2014, letter. I enclose page 1 and page 8 of that ordinance. It provides:

§ 33.060 SUPPLEMENTAL PENSION BENEFIT

* * *

(C) The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10%) and the annual fund earnings assumption rate of 8% to a maximum annual investment return value of up to 2% as calculated on the eligible retirees' portion of the Fund's earnings attributable to assets apportioned to retiree benefit liability.

Mark L. Butler, Chairman
March 10, 2015
Page -3-

The February 25 letter correctly stated:

...Further, it is well-settled law that once a member reaches normal retirement eligibility, benefits cannot be reduced or eliminated. See State ex. Rel. Stringer v. Lee, 2 So. 2d 127, 132-3 (Fla. 1941); O'Connell v. State of Florida, Dept. of Admin., Div. of Retirement, 557 So. 2d 609 (Fla. 3d DCA 1990).

This means that the motion made at the June 24, 2014, meeting would only apply to employees who retired after the effective date of City of Hollywood Ordinance No. 0-2011-26. It would not apply to those employees who retired prior to the effective date of City of Hollywood Ordinance No. 0-2011-26.

I am sending you this letter to request that the Board readdress this issue.

Please place this item on the agenda for the next available meeting.

Thank you.

Very truly yours,


RICHARD A. SICKING

RAS/jcr
Enclosures
cc: Stephen H. Cypen, Esquire
Jennifer V. Kerr, Plan Administrator

PO-2003-25

ORDINANCE NO. 0-2003-20

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, REPEALING ARTICLE XII OF THE CITY CHARTER; ADOPTING A NEW ARTICLE XII OF THE CITY CHARTER; INCORPORATING THE PROVISIONS RELATING TO THE FIREFIGHTERS' PENSION PLAN CONTAINED IN THE SEVERAL COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND HOLLYWOOD PROFESSIONAL FIRE FIGHTERS, LOCAL #1375, PRIOR TO THE 10/1/2002 - 9/30/2005 COLLECTIVE BARGAINING AGREEMENT; INCORPORATING REQUIREMENTS OF FEDERAL AND STATE LAW; AND RESTATING THE REMAINING PROVISIONS OF THE FIREFIGHTERS' PENSION PLAN.

WHEREAS, the City of Hollywood, Florida, firefighters pension plan (the "Plan") is contained in Article XII of the City Charter;

WHEREAS, amendments to the Plan contained in the last several collective bargaining agreements between the City and Hollywood Professional Fire Fighters, Inc., Local #1375, International Association of Firefighters have not been incorporated into Article XII of the City Charter;

WHEREAS, contrary to prior collective bargaining agreements, the 10/1/2002 - 9/30/2005 collective bargaining agreement contains a provision that makes the amendments to the Plan contained therein subject to the adoption by the City Commission of an ordinance amending Article XII of the City Charter and approval by a majority of the voting members of the Plan;

WHEREAS, a number of requirements of federal and state law applicable to the Plan have not been incorporated into Article XII of the City Charter; and

WHEREAS, this ordinance will incorporate all of the amendments contained in prior collective bargaining agreements and the requirements of federal and state law;

WHEREAS, Section 12.23 of the City Charter provides that amendments to the Plan are effective upon an affirmative vote of five ("a majority plus one") members of the City Commission and 50 percent plus one of the voting members of the Plan;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

C. All previous contributions must be repaid prior to the employee's Retirement to be eligible for any benefit under the previous plan.

D. Upon satisfaction of these conditions, the employee will be credited with service in each plan as indicated in subsection 2. above.

Sec. 12.26. Supplemental pension benefit.

The Board of Trustees has created and has been authorized to distribute an annual supplemental pension benefit which is payable on September 30th of each year. This supplemental pension benefit shall be calculated, administered and distributed as follows:

1. The actuary for the System shall determine the percentage rate of investment return on the Fund assets during the twelve (12) month period ending each September 30th ("annual investment return"). The rate determined shall be the rate reported in the most recent actuarial report submitted pursuant to Part VII of Chapter 112, Florida Statutes.
2. If the annual investment return exceeds the actuary's annual fund earnings assumption rate of eight percent (8%), then a supplemental pension distribution shall be made to eligible recipients. If the annual investment return equals or is less than the assumption rate, no supplemental pension distribution shall be made that year.
3. The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10%) and the annual fund earnings assumption rate of eight percent (8%) to a maximum annual investment return value of up to two percent (2%) as calculated on the Retirees' portion of the Fund's earnings.
4. Eligible recipients for supplemental pension benefit distribution shall be:
 - A. Current pension recipients who retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.
 - B. Surviving spouses (or other Beneficiaries) of deceased pension recipients who had retired or entered into the DROP at least ten (10) years prior to September 30th of the year for which supplemental pension benefits are to be paid.
5. The supplemental pension benefit fund shall be divided into equal shares, the number of which shall equal the aggregate number of eligible recipients. On an

PO-2010-29

ORDINANCE NO. 0-2010-30

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING THE CITY CHARTER BY PROVIDING THAT THE PROVISIONS OF ARTICLE IX REGARDING CIVIL SERVICE, ARTICLE X REGARDING THE EMPLOYEES' RETIREMENT FUND, AND ARTICLE XII REGARDING THE FIREFIGHTERS' PENSION SYSTEM ARE ORDINANCES OF THE CITY, SUBJECT TO APPROVAL BY THE ELECTORATE AT A REFERENDUM TO BE HELD ON NOVEMBER 2, 2010; INCORPORATING THE PROVISIONS OF ARTICLES IX, X AND XII OF THE CHARTER INTO THE CODE OF ORDINANCES IF THE CHARTER AMENDMENTS ARE APPROVED BY THE ELECTORATE.

WHEREAS, Florida Statutes Section 166.031(1) provides, in part, that "[t]he governing body of a municipality may, by ordinance, ... , submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality"; and

WHEREAS, the City Commission finds it to be in the best interest of the citizens of Hollywood to present to them, at a referendum election to be held on November 2, 2010, the following proposed Charter amendments; and

WHEREAS, if the proposed Charter amendments are approved by the electorate, the City Commission wishes to codify the former provisions of Articles IX, X and XII of the Charter as provided below;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Article IX of the City of Hollywood Charter is hereby repealed in its entirety and a new Article IX is added to read as follows:

ARTICLE IX. CIVIL SERVICE

All sections of the former Article IX of this Charter, which provided the Civil Service System of the city, are ordinances which shall be amended or repealed as other ordinances.

(Coding: Words underscored are additions to existing law; words ~~struck through~~ are deletions from existing law.)

- (b) Upon notification, the employee must repay the previous plan that amount of his or her contributions that he or she received from the previous plan due to his or her transfer to another plan within the City. The employee will have sixty (60) days to exercise this option. He or she will be given one year to repurchase every two (2) years of prior service.
- (c) All previous contributions must be repaid prior to the employee's Retirement to be eligible for any benefit under the previous plan.
- (d) Upon satisfaction of these conditions, the employee will be credited with service in each plan as indicated in subsection (2) above.

Sec. 33.060. Supplemental pension benefit.

The Board of Trustees has created and has been authorized to distribute an annual supplemental pension benefit which is payable on September 30th of each year. This supplemental pension benefit shall be calculated, administered and distributed as follows:

(1) The actuary for the System shall determine the percentage rate of investment return on the Fund assets during the twelve (12) month period ending each September 30 ("annual investment return"). The rate determined shall be the rate reported in the most recent actuarial report submitted pursuant to Part VII of Chapter 112, Florida Statutes.

(2) If the annual investment return exceeds the actuary's annual fund earnings assumption rate of eight percent (8%), then a supplemental pension distribution shall be made to eligible recipients. If the annual investment return equals or is less than the assumption rate, no supplemental pension distribution shall be made that year.

(3) The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10%) and the annual fund earnings assumption rate of eight percent (8%) to a maximum annual investment return value of up to two percent (2%) as calculated on the Retirees' portion of the Fund's earnings.

(4) Eligible recipients for supplemental pension benefit distribution shall be:

- (a) Current pension recipients who retired or entered into the DROP at least ten (10) years prior to September 30 of the year for which supplemental pension benefits are to be paid.
- (b) Surviving spouses (or other Beneficiaries) of deceased pension recipients who had retired or entered into the DROP at least ten (10) years prior to September 30 of the year for which supplemental pension benefits are to be paid.

PO-2011-22

ORDINANCE NO. 0-2011-26

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING THE SUBCHAPTER OF CHAPTER 33 OF THE CODE OF ORDINANCES TITLED "FIREFIGHTER'S PENSION AND RETIREMENT"; FREEZING THE FIREFIGHTERS' PENSION PLAN EFFECTIVE SEPTEMBER 30, 2011 AND CREATING A NEW FIREFIGHTERS' PENSION PLAN EFFECTIVE OCTOBER 1, 2011.

WHEREAS, on May 18, 2011, the City Commission of the City of Hollywood, Florida, declared a financial urgency for fiscal year 2012 pursuant to Florida Statute Section 447.4095; and

WHEREAS, the City Commission has determined that it is necessary to address the financial urgency by amending the Firefighters' Pension Plan as set forth in this ordinance; and

WHEREAS, Section 33.062 of the Code of Ordinances provides, as one of two methods of amending the Firefighters' Pension Plan, a majority vote of those qualified electors of the City voting in a referendum election called for such purpose by the City Commission; and

WHEREAS, the City Commission has called a referendum for the purpose of amending the Firefighters' Pension Plan as set forth in this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That Section 33.034 of the Code of Ordinances is hereby created to read as follows:

TITLE III: ADMINISTRATION

* * *

CHAPTER 33: CITY EMPLOYEES

* * *

FIREFIGHTER'S PENSION AND RETIREMENT

(Coding: Words and figures underscored are additions to existing law; words and figures ~~struck-through~~ are deletions.)

§ 33.034 INTENT.

(A) It is the legislative intent and purpose of this subchapter to provide certain retirement, disability, death and withdrawal benefits to firefighters of the city in the amounts and under the terms and conditions herein set forth.

(B) The purpose of the system is to provide an orderly means whereby firefighters of the city who become superannuated or otherwise incapacitated as the result of age or disability may be retired from active service without prejudice and without inflicting a hardship upon the firefighters retired, and to enable such firefighters to accumulate reserves for themselves and their beneficiaries to provide for old age, disability, death, and termination of employment, thus effecting economy and efficiency in the administration of city government.

(C) The benefit structure in effect on September 30, 2011 is frozen at midnight on that date. All members will be vested in benefits accrued to that date and payable under the terms and conditions of plan provisions then in effect. No additional benefits of any kind shall accrue; provided, however, that for any member who is eligible to retire with normal retirement benefits on September 30, 2011, the benefit structure in effect on September 30, 2011 shall remain in effect beyond September 30, 2011 and shall not be frozen, except that any such member who does not enter the DROP on or before September 30, 2011 shall not be eligible to enter the DROP after September 30, 2011 and no such member shall be eligible to receive supplemental pension benefits under subsection 33.060 below. Effective October 1, 2011, all members who are not eligible to retire with normal retirement benefits on September 30, 2011 are subject to a new benefit structure as herein set forth.

Section 2: That Section 33.035 of the Code of Ordinances is hereby amended to read as follows:

TITLE III: ADMINISTRATION

* * *

CHAPTER 33: CITY EMPLOYEES

* * *

FIREFIGHTER'S PENSION AND RETIREMENT

* * *

§ 33.035 DEFINITIONS.

For purposes of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

* * *

AVERAGE FINAL COMPENSATION. For Tier 1 members means 1/12 of the average cash compensation of the three highest years of credited service prior to retirement, termination, or death, or the career average as a full-time Firefighter, whichever is greater. A year shall be 12 consecutive months. **AVERAGE FINAL COMPENSATION** for Tier 2 members means 1/12 of the average cash compensation of the five highest years of credited service prior to retirement, termination, or death, or the career average as a full-time Firefighter, whichever is greater. A year shall be 12 consecutive months. The definitions of AVERAGE FINAL COMPENSATION set forth above are frozen at midnight on September 30, 2011. Under the benefit structure effective October 1, 2011, AVERAGE FINAL COMPENSATION for all members means the average cash compensation of the 60 highest consecutive months of the last 120 months of credited service prior to retirement, termination, or death.

* * *

COMPENSATION.

(1) The fixed total monthly remuneration for services rendered to the city as a Firefighter, including accrued sick leave compensation up to 2,200 hours for those Firefighters in this pension system; provided however, that those members whose pensions were merged into this pension system from the supplemental retirement system and those members whose employment by the city as Firefighters commenced subsequent to the merger of the supplemental retirement system into this pension system shall not have their sick leave compensation included in compensation. Except as otherwise stated below, compensation for all Tier 1 members shall include all wages, overtime, workers' compensation/supplemental compensation, expense allowances, cash conversion of holiday benefits, all earned and unused annual leave, compensatory time, blood time and educational incentive payment from the Insurance Commissioner's Trust Fund. Effective July 16, 2009, for all Tier 1 members who have not retired or entered the DROP and for all Tier 2 members, compensation shall include wages, workers' compensation/supplemental compensation, cash conversion of holiday benefits, up to 300 hours of overtime, 70% of the cash payment of accumulated, unused annual leave paid at time of retirement or entry into DROP, expense allowances, and educational incentive payment from the Insurance Commissioner's Trust Fund. Cash conversion of blood time and compensatory time shall be excluded for all Tier 1 members who have not retired or entered the DROP on or before July 15, 2009 and for all Tier 2 members. Compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for an eligible employee shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. **ELIGIBLE EMPLOYEE** is an individual who was a member before the first plan year beginning after December 31, 1995. The definitions of COMPENSATION set forth above are frozen at midnight on September 30, 2011.

(2) Under the benefit structure effective October 1, 2011,

COMPENSATION means, for all members, fixed monthly remuneration for services rendered to the city as a Firefighter, including only wages and educational incentive payment from the Insurance Commissioner's Trust Fund and excluding overtime, workers compensation/supplemental compensation, expense allowances, cash conversion of holiday benefits, accrued leave payouts and cash conversion of blood time and compensatory time. Compensation in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. The limitation on compensation for an eligible employee shall not be less than the amount which was allowed to be taken into account hereunder as in effect on July 1, 1993. ELIGIBLE EMPLOYEE is an individual who was a member before the first plan year beginning after December 31, 1995.

* * *

TIER 2 MEMBER. A Member as defined in this section hired as a Firefighter on or after July 16, 2009 but prior to October 1, 2011.

* * *

Section 3: That Section 33.039 of the Code of Ordinances is hereby amended to read as follows:

TITLE III: ADMINISTRATION

* * *

CHAPTER 33: CITY EMPLOYEES

* * *

FIREFIGHTER'S PENSION AND RETIREMENT

* * *

§ 33.039 CONTRIBUTIONS

(A) *Member contributions.*

* * *

(3) Contributions amount for members hired on or after October 1, 2011. Each member of the system hired on or after October 1, 2011 shall be required to make regular contributions to the Fund in the amount of 7.5% of his or her compensation. Such contributions picked up by the city on behalf of the member shall be deposited with the Board immediately after each pay period and shall be designated as employer contributions pursuant to section 414(h) of the Internal Revenue Code. Such designation is contingent upon the contributions being excluded from the member's

gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered to be member contributions.

(43) *Method.* Such contributions shall be made by payroll deduction.

* * *

Section 4: That Section 33.040 of the Code of Ordinances is hereby amended to read as follows:

TITLE III: ADMINISTRATION

* * *

CHAPTER 33: CITY EMPLOYEES

* * *

FIREFIGHTER'S PENSION AND RETIREMENT

* * *

§ 33.040 BENEFIT AMOUNTS AND ELIGIBILITY.

(A) *Normal retirement date.* A Tier 1 member's normal retirement date shall be the first day of the month coincident with or next following the attainment of age 50 and the completion of ten years of credited service or upon the completion of 23 years of credited service, regardless of age. A Tier 2 member's normal retirement date shall be the first day of the month coincident or next following the attainment of age 55 and the completion of ten years of credited service or upon the completion of 25 years of credited service regardless of age. The normal retirement date of a Tier 1 member with less than ten years of credited service as of September 30, 2011 and a member hired on or after October 1, 2011 shall be the first day of the month coincident with or next following the attainment of age 55 and the completion of ten years of credited service or the first day of the month coincident with or next following the attainment of age 52 and the completion of 25 years of credited service. A Tier 1 member with ten or more years of credited service as of September 30, 2011 shall retain his or her current normal retirement date. A Tier 1 or Tier 2 member may retire on his or her normal retirement date or on the first day of any month thereafter, and each Tier 1 and Tier 2 member shall become 100% vested in his or her accrued benefit upon completion of ten years of credited service. Normal retirement under the system is retirement from employment with the city on or after the normal retirement date.

(B) *Normal retirement benefit.*

(1) A Tier 1 and Tier 2 member (including a DROP participant) retiring hereunder on or after his or her normal retirement date shall receive a monthly benefit

which shall commence on the first day of the month coincident with or next following his or her retirement and be continued thereafter during such ~~Tier 1 and Tier 2~~ member's lifetime, with 120 payments guaranteed in any event. If such ~~Tier 1 or Tier 2~~ member dies after retirement and has been married continuously for at least two years prior to his or her death, payment of one-half of the benefit payment at the time of his or her death shall continue to his or her surviving spouse to the earlier of such spouse's death or remarriage.

(2) The monthly retirement benefit for a Tier 1 member shall equal 3% of average final compensation for each year of credited service, up to September 30, 2011, up to a maximum benefit of 81%. Effective October 1, 2004 for all Tier 1 members actively employed on or after October 1, 2002, the monthly retirement benefit shall equal 3.3% of average final compensation for each year of credited service, up to September 30, 2011, up to a maximum benefit of 86%, and Tier 1 members will receive full credit for all years of service and will not have any benefits pro-rated or otherwise reduced based on years of service under a lesser rate in effect prior to October 1, 2004. Under the benefit structure effective October 1, 2011, the monthly retirement benefit for a Tier 1 member shall equal 2.0% of average final compensation for each year of credited service earned on or after October 1, 2011 up to a maximum benefit equal to the net result of subtracting from 86% the product of 3.3% times the number of years of credited service earned up to September 30, 2011; provided, however, that if the member retires before attaining age 62, an additional benefit equal to 0.5% of average final compensation times credited service on and after October 1, 2011 shall be paid up to age 62.

(3) The monthly retirement benefit for a Tier 2 member shall equal 3.2% of average final compensation for each year of credited service up to September 30, 2011 payable in accordance with Section 33.040 above a maximum benefit of 82.5%. Under the benefit structure effective October 1, 2011, the monthly retirement benefit for a Tier 2 member shall equal 2.0% of average final compensation for each year of credited service earned on or after October 1, 2011 up to a maximum benefit equal to 73.6% (80% less two times 3.2%); provided, however, that if the member retires before attaining age 62, an additional benefit equal to 0.5% of average final compensation times credited service on and after October 1, 2011 shall be paid up to age 62.

(4) The monthly retirement benefit for a member hired on or after October 1, 2011 shall equal 2.0% of average final compensation for each year of credited service up to a maximum benefit of 80%; provided, however, that if the member retires before attaining age 62, an additional benefit equal to 0.5% of average final compensation times credited service on and after October 1, 2011 shall be paid up to age 62.

(5) In any event, each such Tier 1 and Tier 2 member's benefit shall equal at least 2% of average final compensation for each year of credited service averaged over the entire period of credited service of the member.

(C) Cost of living adjustments for retirees.

(1) The pension benefit payable to all normal service retirees who were Tier 1 members shall be increased beginning at the later of:

(a) Three years after the retiree's benefits commence; or

(b) One year after completion of DROP participation and each year thereafter, by an amount equal to 2%.

(2) The benefit provided in this subsection is frozen as of midnight on September 30, 2011. Under the benefit structure effective October 1, 2011, there shall be no cost of living adjustment.

(3) 2) The provisions of this division shall only be applicable to Tier 1 members previously in the supplemental Firefighter's retirement system and any Tier 1 members hired after October 1, 1988. The provisions of this division shall not apply to Tier 2 members or members hired on or after October 1, 2011.

(D) Cost-of-living adjustment for spousal survival benefits. The benefit payable to the surviving spouse of a Tier 1 any member or retiree pursuant to division (B) above or § 33.041 shall be increased by an amount equal to 2% per year; provided, however, that the cost of living adjustment benefit is frozen as of midnight on September 30, 2011. Under the benefit structure effective October 1, 2011, there shall be no cost of living adjustment.

* * *

(F) Increase in benefits. Any increase in benefits resulting by reason of any amendment to this plan shall apply to Tier 1 members at the time of any such amendment only to the extent of increasing their respective retirement benefits by an amount equal to 50% of such increase. This provision shall not apply to Tier 1 members who retire on or after July 16, 2009, or to any Tier 2 members, or to any members hired on or after October 1, 2011.

Section 5: That Section 33.059 of the Code of Ordinances is hereby amended to read as follows:

TITLE III: ADMINISTRATION

* * *

CHAPTER 33: CITY EMPLOYEES

* * *

FIREFIGHTER'S PENSION AND RETIREMENT

* * *

§ 33.059 COORDINATION OF PENSION BENEFITS.

The provisions of this section shall not apply to a Tier 2 member or to a member hired on or after October 1, 2011. In the event that a city employee changes his or her job status with the city such that he or she is considered a Firefighter pursuant to § 33.035, he or she may become a member of the Firefighters' pension system subject to the following rules:

* * *

Section 6: That Section 33.060 of the Code of Ordinances is hereby amended to read as follows:

TITLE III: ADMINISTRATION

* * *

CHAPTER 33: CITY EMPLOYEES

* * *

FIREFIGHTER'S PENSION AND RETIREMENT

* * *

§ 33.060 SUPPLEMENTAL PENSION BENEFIT.

The Board of Trustees has created and has been authorized to distribute an annual supplemental pension benefit which is payable on September 30 of each year. This supplemental pension benefit shall be calculated, administered and distributed as follows:

* * *

(C) The value of the supplemental pension benefit fund shall be equal to the value of the positive difference, if any, between the annual investment return (up to a maximum rate of 10%) and the annual fund earnings assumption rate of 8% to a maximum annual investment return value of up to 2% as calculated on the eligible retirees' portion of the Fund's earnings attributable to assets apportioned to retiree benefit liability. ←

(D) Supplemental ~~Eligible recipients for supplemental~~ pension benefit ~~distributions~~ distribution shall be paid to:

(1) ~~Pension~~ ~~Current pension~~ recipients who retired or entered into the DROP (i) on or before September 30, 2011 and (ii) at least ten years prior to September 30 of the year for which supplemental pension benefits are to be paid.

(2) Surviving spouses (or other beneficiaries) of deceased pension recipients who had retired or entered into the DROP (i) on or before September 30, 2011 and (ii) at least ten years prior to September 30 of the year for which supplemental pension benefits are to be paid.

Section 7: That Section 33.060 of the Code of Ordinances is hereby amended to read as follows:

TITLE III: ADMINISTRATION

* * *

CHAPTER 33: CITY EMPLOYEES

* * *

FIREFIGHTER'S PENSION AND RETIREMENT

* * *

§ 33.061. DEFERRED RETIREMENT OPTION PLAN.

(A) In lieu of terminating employment and accepting a service retirement allowance under the system, any Tier 1 member who has reached age 50 and who has completed ten years of credited service or who has completed not less than 23 years and not more than 30 years of credited service and who is eligible to receive a service retirement allowance and any Tier 2 member who has reached age 55 and who has completed ten years of credited service or who has completed not less than 25 years of credited service and not more than 30 years of credited service and who is eligible to receive a service retirement allowance may elect to participate in the deferred retirement option plan and defer the receipt of benefits in accordance with the provisions of this section. A member who does not enter the DROP prior to October 1, 2011 shall not be eligible to participate in the DROP.

* * *

Section 8: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 9: That if any word, phrase, clause, subsection or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

Section 10: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 11: That this ordinance shall be in full force and effect immediately upon approval by:

A) A "majority plus one" vote of the City Commission and 50% plus one of the voting members; or

B) A majority vote of those qualified electors of the City voting in a referendum election called for such purpose by the City Commission.

ADVERTISED on Aug 26, 2011.

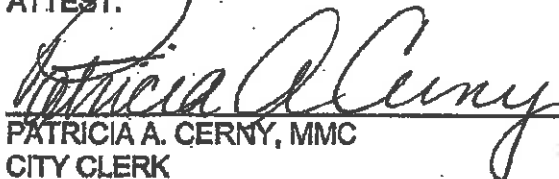
PASSED on first reading this 18 day of July, 2011.

PASSED AND ADOPTED on second reading this 7 day of Sept, 2011.



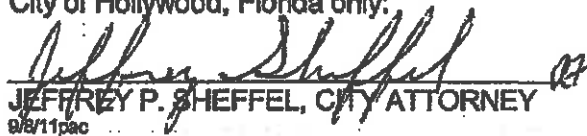
PETER BOBER, MAYOR

ATTEST:



PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida only:



JEFFREY P. SHEFFEL, CITY ATTORNEY

9/8/11pac

8

**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
BOARD OF TRUSTEES MEETING MINUTES**

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Friday, April 17, 2015 @ 8:15 a.m.

I. CALL TO ORDER

The regular meeting of the Board of Trustees of the City of Hollywood Firefighters' Pension Fund was called to order by the Chairman Butler at 8:21 a.m.

II. ROLL CALL

Trustees:

Mark Butler (Chairman), Derek Fleischner, Fire Chief Eric Busenbarrick and Brian Wilkie (via telephone).

Members, Retirees & Beneficiaries:

Don Anderson, Dan Blundy, Deena Brito, Al Burchhardt, Russ Chard, Jamie Daniels, Tom Dinges, Jack Downs, Judy Downs, John Egizi, Frank J Emiliano, Ernest Evans, Joe Gambino, George Geisler, Pete Hanna, George Haskell, Herb Helfen, Chuck Johnson, John Kellerman, Glenda Kllerman, David J Knott, John Kusuk, Gary Lehmann, Bob Madge, Robert Munson, Don Perdue, Jan Pushkar, Kevin Quinn, Norman Rechtman, Peter Robinson, Joe Rohan, Richard Sicking, Gary Skinner, Joe Stolarz, David Swick, Kathy Ward, Paul Watson, Rick Whippy.

Others:

Jennifer Kerr (Plan Administrator), Steve Cypen (Plan Attorney), Brad Heinrichs (Plan Actuary), Richard Sicking and Neesha Bajere (City Finance Department).

III. APPROVAL OF MINUTES

A. March 27, 2015 (*)

Trustee Wilkie moved to approve the minutes of March 27, 2015. Trustee Fleischner seconded the motion. All were in favor.

IV. APPROVAL OF WARRANTS

Trustee Fleischner moved to approve Warrants #6720 - #6727. Trustee Wilkie seconded the motion. All were in favor.

V. ACTUARIAL VALUATION REPORT AS OF OCTOBER 1, 2014

Trustee Wilkie moved to approve the Actuarial Valuation Report as of October 1, 2014.

Trustee Fleischner seconded the motion. All were in favor.

The Board discussed the Supplemental Check calculation for fiscal year ending September 30, 2014.

Trustee Wilkie moved to approve the distribution of the 13th check for \$9,811.15 to 181 eligible members, based on advice from the Plan Attorney and subject to verification by the Plan Administrator. Trustee Fleischner seconded the motion. All were in favor.

VI. LEGAL REPORT

A. None

VII. OLD BUSINESS

A. None

CITY OF HOLLYWOOD FIREFIGHTERS' PENSION BOARD
BOARD OF TRUSTEES MEETING MINUTES310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Friday, April 17, 2015 @ 8:15 a.m.

VIII. NEW BUSINESS**A. Loan Programs (*)**

Trustee Wilkie moved to suspend the Planned Retirement Loan Policy. Trustee Fleischner seconded the motion. All were in favor.

Trustee Wilkie moved to suspend the DROP Loan Policy. The motion fails for a lack of a second.

Trustee Fleischner moved to reconsider the prior motion to suspend the Planned Retirement Loan Policy. Trustee Wilkie seconded the motion. All were in favor.

A vote was then called on the motion to suspend the Planned Retirement Loan Policy. All trustees were opposed.

B. Administrator Performance Evaluation

This item was tabled until next meeting.

C. Discussion of DROP distributions upon death of member

A brief discussion was held on the matter. The Board determined the surviving spouse is not required to take a distribution from the DROP account.

D. Letter dated March 10, 2015 – Richard A. Sicking (13th Check) (*)

Mr. Sicking and retired member Russ Chard addressed the Board. Mr. Cypen agreed to write a letter to the Division of Retirement to clarify the issue.

E. Discussion on Frozen AFC calculation

A brief discussion was held on the matter.

F. Discussion of IT Consultant Requirement to Carry Bond Insurance

A brief discussion was held on the matter. Mr. Cypen requested the Plan Administrator check with the Board's D&O insurance policy to see if a contractor would be covered. Mr. Cypen stated that most IT consultants do not carry this type of insurance. Chairman Butler asked the Plan Administrator to keep looking to see if she can find an IT Consultant that provides this type of coverage.

IX. ADMINISTRATOR REPORT**A. DROP Loan Confirmations (*)**

Chairman Butler asked Ms. Kerr to obtain confirmation from the two members of their new DROP Loan terms.

B. SunCU Account Reconciliation – March 2015 (*)**X. MISCELLANEOUS****A. Letter dated March 24, 2015 – Intercontinental Partial Redemption (*)****B. Letter dated March 26, 2015 – Intercontinental Distribution (*)**

**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
BOARD OF TRUSTEES' MEETING MINUTES**

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com
Friday, April 17, 2015 @ 8:15 a.m.

- C. Letter dated March 26, 2015 – Sustainable Woodlands Fund II, LP (Distribution of Operating Cash Flow) (*)
- D. Letter dated April 6, 2015 – Baring Focused EAFE Equity Fund (Annual Mailing) (*)
- E. Letter dated April 7, 2015 – Saxena White (American International Group, Inc. 2008 Securities Litigation) (*)
- F. City Commission Workshop Presentataion – April 9, 2015 (Foster & Foster) (*)

XI. PUBLIC COMMENTS

Norm Rechtman requested the Board invest in speakers and a PA System. Trustee Wilkie asked Norm to recommended an affordable and reliable system.

XII. ANNOUNCEMENTS

- A. 36th Annual Police Officers and Firefighters' Pension Trustees' School - June 2 - 4, 2015
Augustus B. Turnbull III Florida State Conference Center, Tallahassee, Florida
- B. FPPTA Annual Conference - June 28 - July 1, 2015
Boca Raton Resort & Club, Boca Raton

XIII. NEXT MEETING DATES

May 15, 2015 - Meetings are generally held at 8:15 a.m. at 310 South 62nd Ave. ~ Hollywood, FL 33023 the last Friday of every month.

XIV. ADJOURNMENT

There being no further business, Trustee Wilkie moved to adjourn at 11:00 a.m. Trustee Fleischner seconded the motion. All were in favor.

Respectfully Submitted,



Rafael Fuentes, Secretary

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CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND

BOARD OF TRUSTEES ~ MEETING MINUTES

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Wednesday, June 22, 2016 @ 8:15 a.m.

I. CALL TO ORDER

The regular meeting of the Board of Trustees of the City of Hollywood Firefighters' Pension Fund was called to order by Chairman Butler at 8:28 a.m.

Chairman Butler requested a moment of silence for members who have passed – Isabel Murawski, Fredrick D. Lunsford, and Allen Lapkovitch.

II. ROLL CALL

Trustees:

Mark Butler (Chairman), Eric Busenbarrick, Brian Wilkie, Rafael Fuentes, and Derek Fleischner.

Members, Retirees & Beneficiaries:

Don Anderson, Harry Bealmear, Mark Burnam, Russ Chard, Mark Claxon, Lamar Davis, Tom Dinges, John Egizi, Frank Emiliano, Joseph Eutsey, Mike Fulks, Joe Gambino, Michael Hapsas, George Haskell, Robert Hay, Herb Helfen, Chuck Johnson, Theresa Karl, Thomas Karl, John Kellerman, David T Knott, Gary Lehmann, Bob Madge, Candy McMillan, Edward Moran, Don Perdue, Chris Plummer, Jan Pushkar, Joe Rohan, Margaret Rose, Dick Russell, Rick Whippy, and Skip White.

Others:

Jennifer Kerr (Plan Administrator), Stu Kaufman (Plan Attorney), Paul Donnelly (Attorney), Neesha Hope (City Finance), Jen Gravelle, Sheila Sullivan. Pat Hall, Alan Fallick, and George .Keller

III. PUBLIC COMMENTS

Trustee Busenbarrick presented Chairman Butler with a plaque in gratitude for his 25 years of service. Retired member also presented Chairman Butler with a statue in gratitude for his service on behalf of the retirees.

IV. APPROVAL OF MINUTES

A. May 23, 2016 (*) (A)

Trustee Wilkie moved to approve the minutes of May 23, 2016. Trustee Fleischner seconded the motion. All were in favor.

Trustee Busenbarrick moved to rescind approval of the assumptions made for the FY15 Valuation. Trustee Fleischner seconded the motion.

A discussion was held on the matter. Mr. George Keller, Assistant City Manger, explained to the Board that the City has a large budget gap and would appreciate if the Board would defer implementation of some of the assumption changes.

Mr. Heinrichs explained the pension is a pay now or pay later game. He reviewed the plan experience and wanted to better align assumptions with expectations. The largest impact was the change of the payroll growth assumption. It essentially altered the way the unfunded liability would be paid down. In the past, the unfunded liability payments would be low in the beginning and growing by 3% per year, essentially not paying off the interest on it each year. The payroll

CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND

BOARD OF TRUSTEES ~ MEETING MINUTES

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Wednesday, June 22, 2016 @ 8:15 a.m.

growth assumption was changed to allow the unfunded liability to be paid down annually and not waiting 10 – 15 years to do so.

If the payroll growth assumption is deferred to next year, the unfunded liability will get bigger next year and we will have a bigger deficit to deal with next year. By deferring the payroll growth assumption, the unfunded liability is growing at 7.5% and if payments are not made of at least this amount then we will be losing ground.

Mr. Keller stated the City would make up the difference in contribution next year. Mr. Heinrichs would only support deferring the payroll growth assumption for one year. Otherwise any other changes he fears the State would not accept the report since they have a copy of the experience study.

Trustee Busenbarrick withdrew his original motion.

Trustee Busenbarrick moved to remove the payroll growth assumption change for the 2015 valuation and implement it along with the mortality table assumption for the 2016 valuation. Trustee Wilkie seconded the motion. All were in favor.

V. APPROVAL OF WARRANTS

A. #6832 - #6836 (*) (A)

Trustee Fuentes moved to approve Warrant #6832 -#6836. Trustee Fleischner seconded the motion. All were in favor.

Trustee Busenbarrick requested to have the Travel Policy reviewed at the next meeting.

VI. INVESTMENT CONSULTANT REPORT

Mr. Breth discussed the investment portfolio ended the quarter with a market value of \$209.6 million. For the quarter the portfolio returned 1.2% on a net of fee basis, bringing the fiscal year to date return to 3.9%. Overall returns were driven by the strong rally in equity prices in the second half of Q1 along with strong returns from fixed income, real estate, and total alternatives. The only detractor from returns during the quarter was the timber allocation which was down slightly during the quarter. For the fiscal year to date period, the portfolio has seen strongest gains coming from real estate, timber, equity, and alternatives.

In addition to reviewing the March 31 quarter end results, the Board also reviewed portfolio results as of May 31, 2016. Through May the portfolio's fiscal year to date return increased to 4.8% due to continued strength in the equity markets.

Manager Interviews

Wells Capital: Dann Smith and Bobby Chen

Wells Capital presented information on the firm, the investment process and performance of the Heritage All Cap Growth strategy.

Westfield Capital: John Montgomery/ Justin Moscardelli

**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
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Westfield presented information on the firm, the investment process and performance of the Westfield All Cap Growth strategy.

Trustee Wilkie moved to terminate Globalt and hire Westfield Capital to manage an all cap growth allocation for the plan utilizing the performance based fee. Trustee Fuentes seconded the motion. All were in favor.

Mr. Breth explained that Westfield and Sawgrass will be rebalanced to each manage a 10% allocation within the plan.

VII. LEGAL REPORT

Mr. Kaufman stated he has been in discussions with City Attorney Alan Fallick on the issue of the COLA for disability retirees. The City has taken the position that they would like to address this issue during the upcoming mediation sessions. Stu explained that in the meantime the COLA should be paid.

VIII. OLD BUSINESS

A. Planned Retirement Discussion & Policy (*)

Mr. Kaufman sent notice to all members who did not elect to enter the Planned Retirement as of their eligibility date. Any member that wishes to backdate their entry into the Planned Retirement would need to make an election by July 31, 2016.

Mr. Kaufman also stated that a member can apply for a disability pension while in the Planned Retirement.

Trustee Wilkie moved to allow any affected member to back date their entry to the Planned Retirement up through July 31, 2016. Trustee Fleischner seconded the motion. All were in favor.

Ms. Kerr will notify the membership by sending a memo out to be posted at all the stations.

Trustee Fleischner moved to approve the Planned Retirement Policy effective August 1, 2016. Trustee Wilkie seconded the motion. All were in favor.

IX. NEW BUSINESS

A. Adoption of Forms for Drop Administrative Rule (H)

Trustee Wilkie moved to suspend implementation of the DROP Administrative Rule until after the mediation sessions with the City. Trustee Busenbarrick seconded the motion. The motion failed. Ayes – Chairman Butler; Nays – Trustee Busenbarrick, Trustee Fleischner, Trustee Wilkie, and Trustee Fuentes.

Trustee Busenbarrick moved to table the adoption of the Forms for the DROP Administrative Rule. Trustee Wilkie seconded the motion. All were in favor.

B. FY15 13th Check Calculation (H)

CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND

BOARD OF TRUSTEES ~ MEETING MINUTES

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Wednesday, June 22, 2016 @ 8:15 a.m.

Mr. Heinrichs stated that 197 members would be eligible that would constitute a 13th check in the amount of \$11,457.33 per eligible retiree. Ms. Kerr will certify the list of eligible retirees.

Trustee Fleischner moved to approve the distribution of the 2015 Supplemental Benefit payment contingent on Ms. Kerr's review. Trustee Wilkie seconded the motion. All were in favor.

C. Benefit Election Discussion

Mr. Kaufman will check with the State to see if current DROP members would be allowed to elect their optional form of benefit after their date of entry.

D. Cyber Liability Insurance

The Board requested a representative to present at an upcoming meeting.

X. ADMINISTRATOR REPORT

A. Frozen/Live Plan Eligibility Date Discussion

Ms. Kerr explained that any Tier 1B member has two different eligibility dates. The frozen is at age 50 and the live pension is age 55. Once a member enters planned retirement at age 50, service would stop accruing for the live piece.

B. Unaudited Financials & Budget – As of May 31, 2016 (*)

C. Letter dated May 18, 2016 – Holland & Knight Fee Increase (*)

Ms. Kerr discussed the letter from Robert Friedman dated May 18, 2016. Mr. Friedman has requested an increase in his fee of \$250 per hour to \$325 per hour.

Trustee Busenbarrick moved to increase Mr. Friedman's fee to \$300 per hour. Trustee Wilkie seconded the motion. All were in favor.

D. Copier Discussion (*)

Ms. Kerr stated a new contract was executed at the last meeting.

E. Plan Administrator Vacation Request

Ms. Kerr requested the two weeks of June 27 – July 11. The Board granted her request.

F. Workshop Discussion

Ms. Kerr explained she would like to hold financial workshops for the membership. Trustee Busenbarrick suggested going through the union for this type of workshop.

XI. ANNOUNCEMENTS

- FPPTA 32nd Annual Conference (June 26 - 29, 2016 Hyatt Regency Orlando).

**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
BOARD OF TRUSTEES ~ MEETING MINUTES**

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- IFEBP Certificate of Achievement in Public Plan Policy (CAPPP®) – Pensions Part I (November 12 – 13, Orlando, FL).

XII. NEXT MEETING DATES

July 29, 2016 - Meetings are generally held at 8:15 a.m. at 310 South 62nd Ave. ~ Hollywood, FL 33023 the last Thursday or Friday of every month.

Chairman Butler expressed his gratitude and gave a small speech at the end of the meeting.

XIII. ADJOURNMENT

There being no further business, Trustee Fuentes moved to adjourn at 12:31 p.m. Trustee Wilkie seconded the motion. All were in favor.

Respectfully Submitted,



Rafael Fuentes, Secretary

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**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND BOARD
OF TRUSTEES ~ MEETING MINUTES**

310 South 62nd Avenue ~ Hollywood, FL 33023 ~ www.hollywoodfirepension.com

Thursday, June 29, 2017 @ 8:00 a.m.

I. CALL TO ORDER

The regular meeting of the Board of Trustees of the City of Hollywood Firefighters' Pension Fund was called to order by Chairman Jason Rosner at 8:15 a.m.

Chairman Rosner called for a moment of silence for retired member Daniel Damiano & widow – Lenora Mello who passed away.

ROLL CALL

Trustees:

Jason Rosner (Chairman), Rafael Fuentes (Board Secretary) Chris Pratt, Brian Wilkie and Derek Fleischner.

Members, Retirees, & Beneficiaries:

As outlined on enclosed sign in sheet.

Others:

Bob Klausner, Klausner, Kaufman, Jensen & Levinson; Jon Breth, AndCo Consulting; Dave Williams & Bob Dorn (Interim Plan Administrators) & Jen Gravelle - Deputy Administrator.

II. PUBLIC COMMENTS

- A retired member asked for clarification on the drop rate of return. Mr. Klausner provided same.
- Retired member asked about the city's perspective on settling the litigation. Mr. Klausner felt that the city representatives expressed optimism. Further, advised that funding improvement was paramount to the Plan, especially for the active members. Mr. Klausner spoke of the protected class 2009-2011. Further spoke about the positive impact to the retirees leaving their drop funds in the plan. Lower investment costs, diversification of asset investments. Mr. Wilkie asked Mr. Klausner if there was a reduction of retiree benefits across the US. Mr. Klausner affirmed and cited cost of living as an example in Dallas and the FRS Case here in Florida that was applied prospectively. Mr. Klausner opined that interest on the drop is not an accrued benefit. Changes could be only made prospectively and not applied retroactively.

III. APPROVAL OF MINUTES

- May 25, 2017

Trustee Fleischner moved to approve the minutes of May 25, 2017. Trustee Fuentes seconded the motion. All were in favor.

- June 15, 2017

Amend June 15, 2017 Minutes –Mr. Williams corrected the spelling of Mr. Dorn's last name in the final draft. Trustee Wilkie moved to approve the minutes of June 15, 2017 with the amendment. Trustee Fuentes seconded the motion. All were in favor.

IV. APPROVAL OF WARRANTS

A. #6934 – Berger Singerman – Pending Ratification

Mr. Klausner advised that he reviewed the work related to warrant#6934 and approved same. He reflected that going forward, any additional billable time from Berger Singerman would have to be authorized by him in advance.

Trustee Fleischner moved to approve the warrants. Trustee Pratt seconded the motion. All were in favor.

B. #6944-49

Trustee Wilkie moved to approve the warrants. Trustee Fleischner seconded the motion. All were in favor.

V. ATTORNEY'S REPORT

A. RFP – Plan Administrator

Mr. Klausner announced responses were received from Foster & Foster, Ms. Lisa Castronovo and Mr. Derby Norvius.

Motion by Trustee Fuentes to proceed with the RFP process and interview all parties. The motion was seconded by Trustee Fleischner. All were in favor.

A special meeting date of July 10, 2017 was established to hold interviews. Notices will be sent to all interested parties accordingly by the Mr. Williams.

B. Supplemental Distribution Administrative Policy

Mr. Klausner asked the Board for direction on this matter. Mr. Klausner was advised that at the June 15, 2017 meeting, the consensus was to make a distribution based on them being alive and not re-married at the end of each fiscal year. Mr. Klausner understood and would move forward accordingly.

C. Dempsey Beneficiary – Lawsuit Draft

Mr. Klausner advised that the lawsuit is prepared and he recommends moving forward. Trustees asked if all other means have been exhausted in which responded affirmatively. Mr. Klausner the Board cannot walk away from the loss.

Trustee Fleischner made the motion to proceed with the lawsuit and file accordingly in the best interest of the plan. Trustee Wilkie seconded the motion. All were in favor.

D. Ordinance change/update – Trust for DROP Beneficiary

Mr. Klausner advised that section 33.035 city ordinance was amended to allow a “trust” to be named as a DROP beneficiary in the event of a death of a member or survivor.

A copy of the ordinance may be viewed on line at:

<http://hollywoodfirepension.com/folder/?catid=10>

E. Mediation – Update (This item was taken out of order)

Mr. Klausner addressed the matter of joint mediation that was held on June 16, 2017. Mr. Klausner cited the meeting was recorded by the city and should be available. The topics of discussion were the 13th check and the DROP rate of return. Mr. Klausner spoke about the way the current 13th check is paid out of the plan and how the outflows for the payment burdens the investments due to liquidation of assets.

The proposal being floated is a fixed payment by the city each year to the pension plan based on a benchmark to be determined. The pension plan would be the pass-through for the delivery of the payment and no investments would have to be interrupted. The DROP rate of return was described as "unsustainable". The welfare of the plan is paramount. The proposal would be phasing in a change over a period of years to be determined. The rate of return would be an amount less than the assumed rate of return. Based on the concepts described, further meeting will be held with the city to strive to reach an agreement and dispose of the litigation once and for all. Mr. Klausner announced his intent for a shade meeting with the Board on August 3, 2017.

F. Montgomery, Robert - Spousal Benefit Inquiry

Mr. Dorn reported that Retiree Robert Montgomery is getting married and wanted his wife to have the 50% death benefit. Mr. Montgomery was single when he retired from the Fire Department. Mr. Dorn reported that the normal form of benefit under the City Ordinance is if a member is married two years before his/her death, 50% of the benefit is passed on to the surviving spouse. Mr. Dorn advised that no new actuarial recalculation would be needed and this has been done previously for Retiree Ken Cressler who has similar facts. Mr. Klausner understands that the member elected the standard form which provides a spousal benefit pursuant to city ordinance. As such his soon to be spouse may be added without an annuity adjustment. The Board agreed to this by consensus.

G. Other – Legislative Update

Mr. Klausner reflected his firm completed a 2017 Legislative Review. The following may be of interest.

- Public records pre-suit written notice – SB 80 (Chapter No. 2017-21)
http://laws.flrules.org/files/Ch_2017-021.pdf
- Public records exemption for retired firefighters – SB 1108 (Chapter No. 2017-96)
<http://laws.flrules.org/2017/96>
- Disabled public safety property tax exemption – HB 455 (Chapter 2017-105)
<http://laws.flrules.org/2017/105>
- Proposed additional \$25,000 homestead exemption – HB 7107 (Chapter No. 2017-35)
http://laws.flrules.org/files/Ch_2017-035.pdf

VI. ADMINISTRATIVE REPORT

- **Trustee Fuentes – Nomination Results**

Mr. Williams stated that during his initial review he discovered a notice of nomination was released and posted for the seat of Trustee Fuentes. He sought and gained confirmation from Deputy Administrator Gravelle that no members sought the open seat. Mr. Williams reflected the nomination process was not formally presented for adoption when completed and as such, requested the Board accept his findings so proper notice can be provided to the city clerk.

Trustee Pratt moved to accept the nomination process report from Mr. Williams. Trustee Wilkie seconded the motion. All were in favor.

- **Cyber Insurance:** Mr. Williams secured a cyber liability quote for the Board to consider. Mr. Klausner endorsed the coverage, but will review the proposal and he will provide direction at the next meeting.
- **Required Minimum Distribution:** Mr. Dorn reported to the Board that the actuary has calculated the 2017 Required Minimum Distribution (RMD) for the retirees that have attained age 70.5 and have not yet closed their DROP Accounts.

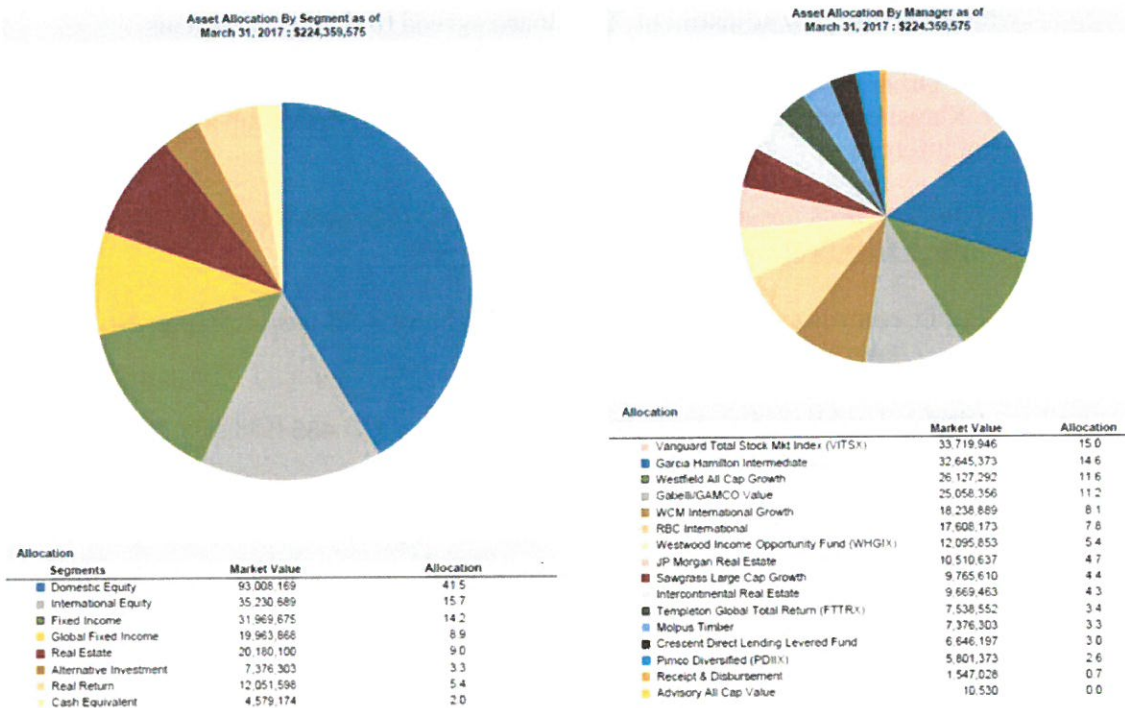
Per the Internal Revenue Code (IRC), these members must take their RMD by December 31, 2017. In some cases, deferrals till April 2018 may apply. Mr. Dorn reported that upon approval of the identified members, a letter will be sent to each of these individuals and on December 29, 2017 (or the deferral date) the distributions will occur unless otherwise notified by the member. The Board acknowledged this information and agreed by consensus.

- IT Update: It was reported that sensitive files were removed from the web and members may call the office for any assistance.
- Administrative Assistant - Update: Chairman Rosner reported that Jen Gravelle - Deputy Administrator wished to go to a part time status as of July 11, 2017 and she would be paid based on her hours at \$30.00 per hour. The Board agreed by consensus.

VII. INVESTMENT PRESENT TATION

Mr. Jon Breth of AndCo Consulting presented the March 31, 2017 investment report to the Board of Trustees.

The asset allocation by segment and by manager was reported as follows:



The market value as of March 31, 2017 was reported to be \$224,359,575. Mr. Breth reflected the net quarterly return (ending March 31, 2017) was 4.86% vs. 4.04% for the benchmark. On a reported gross basis of 4.98%, the fund ranked in the top 19% in the public funds universe. On a fiscal year to date (ending March 31, 2017) the net return for the fund was valued at 5.66% vs 5.12%. On a reported gross basis of 5.96%, the fund ranked in the top 26% in the public funds universe. For the rolling one year period, the net fund return was reported to be a stellar 10.37%. On a reported gross basis of 10.96%, the fund ranked in the top 49% in the public funds universe. Looking longer term of 3 & 5-year period (ending March 31, 2017), the fund ranked in the top 8% & 4% respectively.

Mr. Breth stated that Sawgrass is being put on "watch" and notice will be provided accordingly. Their performance would be revisited at the end of the fiscal year. Mr. Klausner asked Mr. Breth the direction he intended to recommend to the Board should the need arise. Mr. Breth stated he was leaning towards passive investment.

Mr. Breth indicated Mr. Williams approached him about developing a manager appearance schedule. He will be working on that with the administrator.

Mr. Breth also stated that he would like to present additional investment alternatives to the Board to consider at an upcoming meeting.

VIII. OLD BUSINESS

- **Adoption of Forms for DROP Administrative Rule:** Mr. Klausner felt that due to the potential agreement with the city reported earlier, that he would recommend no action and to table.
- **Supplemental Distribution:** Mr. Dorn reported to the Board that the Supplemental Distribution (13th check) was calculated by the Fund's Actuary for the year ending 9/30/2016. The total amount eligible assets according to the actuary for the Supplemental Distribution was \$2,498,981. There are 200 eligible individuals based upon the Board interpretation that the retired member must be alive for the entire fiscal period and the city ordinance provisions 33.060. All eligible members will receive \$12,494.91 once the member sends back their confirmation letter. Mr. Dorn reported that all of the confirmation letters and notifications are ready to be mailed upon approval of the Board. After the Board reviewed and discussed this matter with Mr. Klausner the following motion was made.

Trustee Wilkie moved to approve Supplemental Distribution (13th check) as calculated by the Fund's Actuary for fiscal year ending September 30, 2016. Trustee Fleischner seconded the motion. All were in favor.

- **AFC Calculation:** Mr. Dorn reported that at the meeting of June 15, 2017 the Board gave direction to have the following members Average Final Compensation (AFC) and Credited Service through each member's planned retirement date recalculated: (1) Eric Busenbarrick, Donald Lassiter, (3) Joel Medina, (4) Andrew Mossop, (5) Susan Thomas, and (6) Ronald White. This action was based on a legal opinion of February 23, 2016.

Mr. Dorn reported that the Fund's Actuary completed the recalculations. Mr. Dorn presented to the Board the new AFC's for each of the aforementioned members and the new Planned Retirement Benefit Balance (PRB).

The Board acknowledged this and gave direction to make the necessary changes to the members' monthly benefit amounts and the PRB balances. Mr. Dorn reported that each member will be notified of the change and retro checks will follow via warrant(s).

Mr. Dorn advised that the names of the remaining members who require calculation will be sent to the actuary for review as well. The Board acknowledged this information.

IX. NEW BUSINESS

- **FTIS Custodial Report – Amed Avila:** Mr. Avila introduced himself and thanked the Board for the 22-year relationship with Fiduciary Trust. Mr. Avila outlined the security measures FTIS has in place to protect the fund. Mr. Avila spoke of the professional working relationship he has with Mr. Williams & Mr. Dorn.

Mr. Avila advised he has been working with Mr. Williams & Mr. Dorn during the transition of administration in the best interest of the fund. Mr. Avila is available locally should the Board ever need any assistance.

- Authorized Signors Form – Mr. Williams presented the FTIS Authorized Signors Form to execute.

Trustee Fleischner moved to approve the FTIS Authorized Signors Form. Trustee Wilkie seconded the motion. All were in favor.

X. OPEN DISCUSSION

RFP: Questions arose as to why Precision Pension Administration, Inc. did not reply to the RFP by members in the audience. Chairman Rosner deferred to Mr. Williams who responded that the RFP reflected the Board was desirous of a full-time plan administrator. That full-time commitment could not be made, and Mr. Williams felt anything less than the Board wanted was not acceptable and therefore did not apply. An audience member asked if Foster & Foster being the plan administrator and the plan actuary could be a conflict of interest. Mr. Klausner said it was not a conflict, but a question the Board would have to ask is whether they want all their eggs in one basket. An inquiry was made as to whether another submission could be accepted. Mr. Klausner indicated that this was a public meeting and notice was provided the RFP's would be considered, so the Board could accept an additional RFP. At this point the discussion ensued among the Board and by consensus asked Mr. Williams to submit a RFP based on the foregoing, in which Mr. Williams agreed and thanked all for the consideration.

Meeting Date Rescheduled: The Board changed the next regular meeting date from July 27, 2017 to August 3, 2017 at 8:00 AM due to schedule conflicts. A portion of that meeting will be a shade meeting as requested by Mr. Klausner.

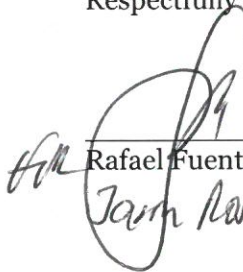
XI. ADJOURNMENT

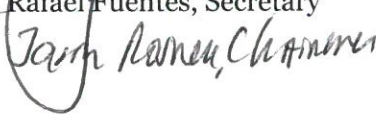
There being no further business, Trustee Wilkie moved to adjourn 10:15 a.m. Trustee Fuentes seconded the motion. All were in favor.

Next Special Meeting Scheduled: July 10, 2017¹

Next Regular Meeting Scheduled: August 3, 2017

Respectfully Submitted,



Rafael Fuentes, Secretary

Joan Rosner, Chairman

¹ The July 10, 2017 meeting was subsequently cancelled due to schedule conflicts.

6/29/2017 Hollywood Fire Pension Board Meeting - Attendee Sign In

Richard Tursi	
Jack Bernmark	Gary Lehmann
George Geisler	J.R. Kuhl
Thomas Kari	
Kenneth Castronovo	
Mac Champion	
Ron MATT	
Bob MADGE	
Chuck Johnson	
Nyam Rechtman	
(MUNSON)	
HERB HELFEN	
Don Perdue	
John Kellerman	
Glenda Kellerman	
John PASHKAK	
Russ Chard	
Robert ARNST	
Mark Burnam	
Kate Hannan	
George Haspell	
HANK O'Metti	

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**CITY OF HOLLYWOOD FIREFIGHTERS' PENSION FUND
PENSION BOARD OF TRUSTEES MONTHLY MEETING MINUTES
310 South 62nd Avenue, Hollywood, FL 33023**

Thursday, September 27, 2018 – 8:00AM

TRUSTEES PRESENT: Jason Rosner
Derek Fleischner
Brian Wilkie
Rafael Fuentes
Chris Del Campo

TRUSTEES ABSENT: None

OTHERS PRESENT: Stuart Kaufman, Klausner, Kaufman, Jensen & Levinson
Michelle Rodriguez, Foster & Foster
Braelen Scott, Foster & Foster
Patrick Donlan, Foster & Foster
Robert Friedman, Holland & Knight
Alan Fallik, Assistant City Attorney
Paul Donnelly, Donnelly and Gross
Russell Chard, Retiree
Peter Hannah, Retiree
Michael Reilly, Retiree
Retired members of the plan
Members of the public

1. **Call to Order** – Jason Rosner called the meeting to order at 8:10AM.
2. **Moment of Silence** - None
3. **Roll Call** – As reflected above.
4. **Public Comments**
 - a. Jason Rosner commented that a lawsuit has been filed regarding the 13th check calculation and the proposed revisions to the DROP Administrative Rules. The lawsuit would prevent the board from discussing anything in the lawsuit at the board meeting.
 - b. Pete Hannah commented he was concerned about the financial impact of the proposed changes to the DROP administrative rule and felt the board has not been sympathetic to the financial distress it will cause the retirees.
 - c. Mike Reilly commented he had a discussion with an auditor at Davidson, Jamieson & Cristini, PL about his DROP loan and asked why the auditor allowed retirees to use pretax dollars to repay DROP loans. Mike commented the auditor told him that the pension board at the time advised him that was a valid method for repaying DROP loans. Mike then commented he spoke to a representative of the IRS and was told by the IRS representative that his DROP loan may be considered paid and the interest should be set at bank rates.
5. **Executive Session**
 - a. Klausner, Kaufman, Jensen & Levinson, Stuart Kaufman, Board Attorney

1. Jason Rosner read the executive session notice. The board will hold an executive session pursuant to Florida Statutes, section 286.011(8). Stuart Kaufman commented the session would last approximately 15 minutes.

The board voted to go into the executive session as noticed upon motion by Chris Del Campo and second by Derek Fleischner, motion carried 5-0.

Note: The board went into the executive session from 8:20AM – 8:46AM.

Note: No motions or actions were taken during the executive session.

Note: The board reconvened the regular meeting at 8:52AM.

6. Approval of Minutes

The minutes from the August 30, 2018 monthly meeting were approved upon motion by Rafael Fuentes and second by Brian Wilkie, motion carried 5-0.

The minutes from the September 12, 2018 special board meeting were approved upon motion by Derek Fleischner and second by Brian Wilkie, motion carried 5-0.

7. New Business

- a. Discussion of DROP Loan IRS issue, Bob Friedman
 1. Stuart Kaufman asked for a motion to authorize Bob Friedman to act as an expert witness in the retirees' lawsuit.

The board authorized Bob Friedman to act as an expert witness in the retirees' litigation upon motion by Brian Wilkie and second by Derek Fleischner, motion carried 5-0.

2. Stuart Kaufman reviewed the letter regarding coordination of benefits. Stuart commented that he has reviewed past ordinances and rules regarding coordination of benefits and it is his belief that the original methodology was valid. Stuart commented Foster & Foster should recalculate the DROP schedules of the approximately five (5) retirees who were affected, using the original methodology.

The board authorized Foster & Foster to re-calculate the DROP schedules of those retirees affected by the coordination of benefits as directed by Stuart Kaufman upon motion by Derek Fleischner and second by Brian Wilkie, motion carried 5-0.

- b. Presentation by Russell Chard regarding the supplemental payment and DROP administration
 1. Russell Chard introduced Paul Donnelly as the attorney representing the Retired Firefighters Legal Defense Fund (RFLDF). Paul Donnelly reviewed the inception of the RFLDF.
 2. Paul Donnelly commented that the pension board has expressed a desire to lower benefits but has never produced a need to do so. Paul reviewed the actuarial analysis that had been done by Foster & Foster. Paul referenced a letter he received from Assistant City Manager George Keller indicating Mr. Keller has taken a strong position to increase employee pension benefits. Paul commented

that restoring benefits is the right thing to do, keeping benefits is the legal thing to do. Paul commented the RFLDF has asked for actuarial analysis of the impact of the DROP loan revisions, he then reviewed the July 26, 2018 board meeting. Paul reviewed the chronology of past negotiation efforts; 11/29/16 city hall mediation; 11/30/16 member of the RFLDF attended a productive meeting at the offices of KKJL; 6/16/17 meeting of the retirees and KKJL. Paul Donnelly commented that there has not been a meeting or communication since then.

3. Paul Donnelly reviewed an email he sent to KKFL dated 1/4/18 in response to a settlement offer that was presented to the RFLDF. Paul also commented that his firm was given short notice of the 9/12/18 special board meeting and were not able to attend, however they sent the counter proposal via email. Paul commented that he did not believe proper negotiation had been done and that the RFLDF is ready and open to negotiations.
4. Stuart Kaufman asked if the board would like to move the discussion of the proposed DROP administrative rules up in the agenda. Stuart commented he would like for further negotiations to be done before a vote on the DROP administrative rule. The board discussed the proper venue; mediation meeting or a board meeting. Russell Chard commented that the mediation process with only one board member present at a time would be more suitable because those meeting would not be subject to Sunshine Laws.

The board approved tabling the DROP administrative rules to allow for further negotiations upon motion by Brian Wilkie and second by Rafael Fuentes, motion carried 5-0.

The board authorized Stuart Kaman to conduct expedited negotiations to be done via mediation and for Foster & Foster to provide actuarial services as needed upon motion by Brian Wilkie and second by Chris Del Campo, motion carried 5-0.

8. **Reports**

- a. Klausner, Kaufman, Jensen & Levinson, Stuart Kaufman, Board Attorney
 - i. Discussion of board to retain counsel for retirees in city lawsuit
 1. Stuart Kaufman requested a motion to table discussion until a later date.

The board approved tabling the discussion to retain counsel for retirees until a later date upon motion by Brian Wilkie and second by Derek Fleischner, motion passed 5-0.

- ii. Memo regarding Amendment 6 of the Florida Constitution
 1. Stuart Kaufman commented the portion of Amendment 6 dealing with administrative hearings could affect the board. Stuart commented that when an administrative body, such as the board, makes a decision that has been appealed it is cloaked with a level of deference when it is taken before a judge. Amendment 6 would allow the court to look at the issue without regard for the administrative agency's professional knowledge of the matter.

- b. Foster & Foster, Patrick Donlan, Board Actuary
 - i. Discussion of the October 1, 2017 revised valuation

1. Patrick Donlan reviewed the history of the revised valuation and the associated financial impact of the different payroll growth assumption rates.
2. Alan Fallik, Deputy City Attorney, commented he was at the board meeting on behalf of the City Manager. Alan reviewed a letter to Jason Rosner from the City Manager, dated August 12, 2018. Alan asked that the board rescind its action to accept the revised October 1, 2017 Actuarial Valuation Report with the 1.5% payroll growth assumption rate and keep the payroll assumption rate at 3% for the coming fiscal year.

The board approved the original 10/1/17 actuarial valuation that was presented at the July 26, 2018 board meeting, superseding the motion to accept the revised 10/1/17 actuarial valuation that was presented at the August 30, 2018 board meeting upon motion by Chris Del Campo and second by Brian Wilkie, motion carried 5-0.

ii. 13th check calculation

1. Patrick Donlan reviewed the letter and commented the board had the discretion to add interest to the amount since it took longer than usual because of the PERC case. The board discussed the interest rate percentage that should be added to the distribution amount.

The board approved to accept the 13th check calculation as presented and added 7.5% interest for each participant upon motion by Derek Fleischner and second by Brian Wilkie, motion carried 5-0.

c. Foster & Foster, Michelle Rodriguez, Plan Administrator

i. Update on fiduciary liability policy

1. Michelle Rodriguez commented the current fiduciary liability policy expires on November 25, 2018 and she is currently working with Ferrell Jenne to secure a quote for the renewal policy. Michelle commented the recent lawsuit filed by the retirees against the board has been forwarded to the insurance company and will likely change the rate.

ii. Proposed FY 2018-2019 administrative budget

1. Michelle Rodriguez reviewed the proposed budget and commented the actual expenses as of 9/30/18 will be presented prior to the end of the year.

The board approved the FY 2018 – 2019 proposed administrative budget as presented upon motion by Brian Wilkie and second by Derek Fleischner, motion carried 5-0.

iii. Educational opportunities

1. Michelle Rodriguez reviewed the upcoming educational opportunities.

9. **Old Business** – None

10. **Consent Agenda**

- a. Payment ratification
 - i. Warrant #31
- b. Payment approval
 - i. Warrant #32

c. Fund Activity Report for August 24, 2018 – September 20, 2018

The board voted to approve the consent agenda as presented upon motion by Rafael Fuentes and second by Derek Fleischer; motion carried 5-0.

11. **Trustees' Reports, Discussion, and Action**

1. Brian Wilkie asked about the requirements for notarizing forms. Michelle Rodriguez commented that a notarized signature is always required for affidavits, such as the one used for the disbursement of the 13th check. Otherwise, it is up to the company administering the forms to take guidance from their attorney and determine which forms should required notarized signatures.

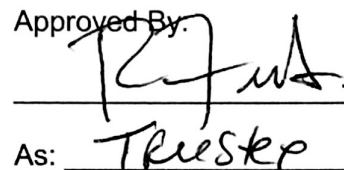
12. **Adjournment** – The meeting adjourned at 9:49AM

13. **Next Meeting** – October 23, 2018, 8:00AM, monthly meeting.

Respectfully Submitted By:


Michelle Rodriguez, Plan Administrator

Approved By:


As: Trustee

Date Approved by the Pension Board:

10/23/18

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS
RUSSELL CHARD, and similarly situated individuals, and RETIRED FIREFIGHTERS LEGAL DEFENSE FUND, INC

DEFENDANTS
CITY OF HOLLYWOOD FIREFIGHTERS PENSION FUND BOARD OF TRUSTEES and

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address, and Telephone Number)
Donnelly + Gross
2421 NW 41st St., Ste A-1, Gaineville, FL 32606 (352) 374-4001

Attorneys (If Known)

(d) Check County Where Action Arose:

☐ MIAMI-DADE☐ MONROE☒ BROWARD☐ PALM BEACH☐ MARTIN☐ ST. LUCIE☐ INDIAN RIVER☐ OKEECHOBEE☐ HIGHLANDS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff

☒ 3 Federal Question (U.S. Government Not a Party)

☐ 2 U.S. Government Defendant

☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729 (a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Re-filed (See VI below)

☐ 4 Reinstated or Reopened

☐ 5 Transferred from another district (specify)

☐ 6 Multidistrict Litigation Transfer

☐ 7 Appeal to District Judge from Magistrate Judgment

☐ 8 Multidistrict Litigation - Direct File

☐ 9 Remanded from Appellate Court

VI. RELATED/RE-FILED CASE(S)

(See instructions): a) Re-filed Case ☐ YES ☒ NO b) Related Cases ☐ YES ☒ NO

JUDGE:

DOCKET NUMBER:

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause (Do not cite jurisdictional statutes unless diversity):
42 USC s. 1983; 28 USC s. 2201; Declaratory Judgment Injunction & Damages under Federal Contract Clause

LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

IFP

JUDGE

MAG JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Refiled (3) Attach copy of Order for Dismissal of Previous case. Also complete VI.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

Remanded from Appellate Court. (8) Check this box if remanded from Appellate Court.

VI. Related/Refiled Cases. This section of the JS 44 is used to reference related pending cases or re-filed cases. Insert the docket numbers and the corresponding judges name for such cases.

VII. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553

Brief Description: Unauthorized reception of cable service

VIII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

Date and Attorney Signature. Date and sign the civil cover sheet.

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

Southern District of Florida

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

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 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Print

Save As...

Reset

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Hollywood, Florida Unlawfully Reduced Firefighters' Pension Payments, Class Action Claims](#)
