

MEMORANDUM

Agenda Item No. 8(E)(1)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: February 4, 2014

FROM: R. A. Cuevas, Jr.
County Attorney

SUBJECT: Resolution authoring the City
of Homestead to amend the
City of Homestead Firefighter
Retirement Plan to comply with
the Internal Revenue Code and
State Law

Resolution No. R-98-14

The accompanying resolution was prepared by the Miami-Dade Fire and Rescue Department and placed on the agenda at the request of Prime Sponsor Commissioner Sally A. Heyman.



R. A. Cuevas, Jr.
County Attorney

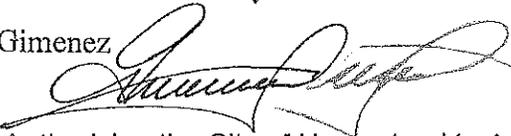
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Memorandum



Date: February 4, 2014

To: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

From: Carlos A. Gimenez
Mayor 

Subject: Resolution Authorizing the City of Homestead to Amend the City of Homestead Firefighter Retirement Plan to Comply with the Internal Revenue Code and State Law

RECOMMENDATION

It is recommended that the Board of County Commissioners (Board) approve the attached resolution authorizing the City of Homestead to amend the Homestead Firefighter Retirement Plan in order to comply with the Internal Revenue Code and the Laws of the State of Florida.

SCOPE

This item impacts the retired Miami-Dade Firefighters enrolled in the Homestead Firefighter Retirement Plan.

FISCAL IMPACT/FUNDING SOURCE

This item has no fiscal impact to Miami-Dade County.

TRACK RECORD/MONITOR

The Miami-Dade Fire Rescue Department Assistant Director, Scott Mendelsberg, monitors the Homestead Firefighter Retirement Plan for Miami-Dade County.

BACKGROUND

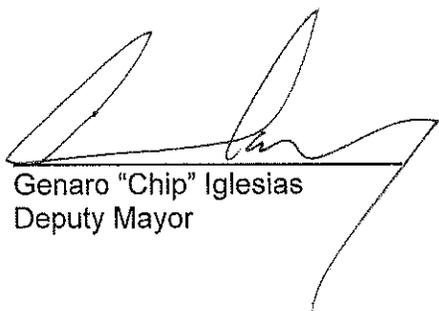
The City of Homestead and Miami-Dade County entered into an Inter-local Agreement in October 2002, in an effort to settle litigation concerning the Homestead Firefighter Pension Plan (Attachment I). This Inter-local Agreement provided for continuing County contributions to the Plan in order to make future benefit payments to retirees. The Inter-local Agreement also required the City of Homestead to comply with various terms and conditions set by the County, including strengthening management and oversight of Plan assets as well as concerns cited by the State of Florida, Department of Management Services, regarding data contained in Annual Reports.

As part of the Inter-local Agreement, the City of Homestead is required to seek County approval prior to any changes in the Homestead Firefighter Retirement Plan. The County has approved three previous amendments to the Homestead Firefighter Retirement Plan, via R-878-06, R-426-07, and R-1108-7. The changes previously authorized included the creation of a Deferred Retirement Option Program (DROP), an amendment allowing use of Chapter 175 funds (fire insurance premium taxes) from the State, and adjustments to eligibility standards for plan benefits.

The proposed amendments to the Homestead Firefighter Retirement Plan make technical changes to various provisions to comply with state and federal laws, including the Laws of Florida Chapter 2009-97 and Chapter 2011-216 (Attachment II). The plan would be amended to comply with state law concerning fiduciary standards, allowable investments, member vesting, optional benefit designation, and fund distribution upon termination. The amendments also address Internal Revenue Code requirements concerning rollover distributions and the Uniformed Services Employment and Reemployment Rights Act (USERRA). The proposed changes to the Plan were presented to the

Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners
Page 2

Homestead Firefighter Retirement Board on May 13, 2013 and approved by unanimous vote. There is no actuarial impact from these amendments (Attachment III).



Genaro "Chip" Iglesias
Deputy Mayor



MEMORANDUM
(Revised)

TO: Honorable Chairwoman Rebeca Sosa
and Members, Board of County Commissioners

DATE: February 4, 2014

FROM: 
R. A. Cuevas, Jr.
County Attorney

SUBJECT: Agenda Item No. 8(E)(1)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's ____, 3/5's ____, unanimous ____) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(E)(1)
2-4-14

RESOLUTION NO. R-98-14

RESOLUTION AUTHORIZING THE CITY OF HOMESTEAD TO AMEND THE CITY OF HOMESTEAD FIREFIGHTER RETIREMENT PLAN TO COMPLY WITH THE INTERNAL REVENUE CODE AND STATE LAW

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that the City of Homestead is authorized to amend the Homestead Firefighter Retirement Plan as outlined in the attached City of Homestead Ordinance.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **José "Pepe" Diaz** and upon being put to a vote, the vote was as follows:

	Rebeca Sosa, Chairwoman	aye	
	Lynda Bell, Vice Chair	aye	
Bruno A. Barreiro	aye	Esteban L. Bovo, Jr.	absent
Jose "Pepe" Diaz	aye	Audrey M. Edmonson	aye
Sally A. Heyman	aye	Barbara J. Jordan	aye
Jean Monestime	aye	Dennis C. Moss	aye
Sen. Javier D. Souto	aye	Xavier L. Suarez	aye
Juan C. Zapata	aye		

The Chairperson thereupon declared the resolution duly passed and adopted this 4th day of February, 2014. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS



HARVEY RUVIN, CLERK

By: **Christopher Agrippa**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

William X. Candela

**INTER-LOCAL AGREEMENT BETWEEN
MIAMI-DADE COUNTY AND THE CITY OF HOMESTEAD
REGARDING FUNDING AND ADMINISTRATION OF
THE CITY OF HOMESTEAD FIREMAN'S RELIEF AND PENSION FUND**

THIS AGREEMENT made by and between MIAMI-DADE COUNTY, a political subdivision of the State of Florida, hereinafter called the "County", and the CITY OF HOMESTEAD, a municipal corporation, hereinafter called the "City".

WHEREAS, on September 19, 1978, the County and the City entered into an Agreement (the 1978 Agreement) whereby fire protection and rescue services relating to the City were transferred from the City to the County; and

WHEREAS, pursuant to Section 8 of the 1978 Agreement each employee transferred from the City to the County had the right to either remain in the City of Homestead Retirement Income Plan for Firemen (the City Plan) or join the Florida Retirement System (FRS); and

WHEREAS, all 20 Homestead firefighters chose to remain in the City Plan whereby their pension benefits would continue to be paid from the City of Homestead Fireman's Relief and Pension Fund (the Fund); and

WHEREAS, under said Section 8 the County has agreed to make certain contributions on behalf of those firefighters who chose to remain in the City Plan; and

WHEREAS, in the intervening years a number of factors have adversely affected the financial condition of the Fund including the City Plan being a "closed plan" dependent upon contributions by a declining number of active firefighters and a number of firefighters electing disability retirement status in advance of their normal retirement dates; and

WHEREAS, during such time the City and the County have been in dispute as to any obligations of the County to make up Fund shortfalls; and

WHEREAS, the County maintains that it has at all times been in compliance with the terms of the Agreement, but retains an interest in preserving promised benefits to retired and active firefighters dependent upon the City Plan and the Fund; and

WHEREAS, the County and City contributions will, based on sound actuarial assumptions set forth in the Actuarial Consultant Report (Exhibit I) to this Agreement (the "Agreement"), be adequate to meet the pension payment requirement (the "Pension Requirement") under the City Plan;

IT IS HEREBY AGREED:

Section 1. The preamble to this Agreement is hereby incorporated by reference and made a part of this Agreement.

Section 2. The County agrees to make a one-time payment to the Fund of \$1,411,259, representing the aggregate difference, plus accumulated interest, between the County's 13.95% Fund contribution rate from 1979 through 2001 and the prevailing FRS contribution rate during corresponding years, as set forth in Exhibit II to this Agreement. Payment is expected on or before October 1, 2002, and shall be adjusted for accumulated interest, from January 1, 2002 through remittance date. Remittance of this payment by the County is specifically conditioned on compliance of the Fund and its Board of Trustees (Pension Board) with the terms set forth below, and may be withheld for non-compliance.

Section 3. For each of the years 2002 through the year in which the last employee member of the Plan retires (projected 2009), the County shall contribute on behalf of each Fund participant then employed by the County, the same percentage of eligible gross earnings contributed on behalf of similarly situated firefighters in the FRS, at the prevailing *Special Risk* contribution rate. Any additional contributions that may be required to make the Plan actuarially sound shall be made by the City in accordance with Section 5.

Section 4. The Pension Fund shall make no further demands upon the County for the payment of any contributions other than the amounts set forth herein.

Section 5. In consideration for the County's obligation undertaken herein, the City agrees to make contributions to the Fund in each of the years 2002 through the year in which the last employee member of the Plan retires (projected 2009), inclusive, equal to the difference between the Fund's benefit payments and administrative expenses (Normal Cost) and the sum of contributions received from the County, State, and participating employee members of the Plan. The City recognizes that its contribution as a percentage of employee compensation will vary, subject to fluctuations in Fund expenses and asset yield. The projections presented in the attached Exhibit I, prepared by a professional actuarial consultant, are based on specific assumptions that may differ from actual experiences and market conditions. Notwithstanding, the County's sole Fund contribution obligations are reflected in Sections 2 and 3, and will under no circumstances be altered in the event Plan funding assumptions presented in Exhibit I are not realized. The City acknowledges that future County contributions are limited by this Agreement, and the City hereby agrees to fund, to the extent mandated by State law, any and all shortfalls that may result from differences between assumptions and actual experiences or market conditions. Beyond the date of the last retirement, the City shall, to the extent mandated by State law, continue to make contributions. The City is responsible for complying with all applicable requirements of Chapters 112 and 175, Florida Statutes, imposed on municipal employers maintaining pension plans, including but not limited to, the consistent and timely submission of annual actuarial reports to the Division of Retirement (the Division) and the County, substantiating the adequacy of current contribution levels as outlined in Section 112.63(1), Florida Statutes; and the submission of supplemental contributions, if necessary, on a quarterly

basis to alleviate funding shortfalls identified in the actuarial report, in accordance with and to the extent required by Section 175.131 Florida Statutes.

Section 6. Firefighter contributions to the Plan shall be maintained at the current level; each active Firefighter participating in the Plan shall contribute 5% of eligible gross earnings to the Fund.

Section 7. Upon termination of the Plan, all excess funds shall be returned to the State, County or City in accordance with State law.

Section 8. In consideration of the payments the County has agreed to make, the Fund agrees to make the following changes to its Board and Pension Plan:

(a) **Pension Board Membership, Responsibilities, and Oversight**

- 1) The Pension Board shall discharge its fiduciary responsibilities as set forth in the provisions of Sections 175.061 and 175.071, Florida Statutes and membership shall be reviewed to ensure compliance therewith. If the Board is not presently in compliance, it will be brought into compliance within sixty days. The Board agrees to include among its members persons with substantial experience in pension-related financial matters.
- 2) The City shall appoint a representative from the City Manager's office to monitor the Pension Board's meetings and actions and to ensure that any future amendments or other decisions affecting the Plan are financially sound and properly authorized. The City and the Board shall be jointly responsible for ensuring that the Board complies with all provisions of Chapter 175, Florida Statutes, including but not limited to the composition of the governing Board, terms of office, meetings, and legal structure. The City and Board shall also be

responsible for review and payment of any professional service fee, attorney's fees and other costs associated with the Plan, from the Fund.

- 3) The County shall be entitled to appoint an ex-officio, non-voting County representative to the Board, who shall be entitled to attend all Board meetings, receive copies of all Board correspondence and otherwise be kept fully and promptly informed of all Fund matters.
- 4) A qualified firm or firms shall be hired to provide professional custodial, trust, and investment management services, as well as distribution of benefit payments. At least once every three years, the Board shall retain a professionally qualified independent consultant, who shall evaluate the performance of any existing professional money manager as required by Section 175.071(6), Florida Statutes.
- 5) The Board is the Plan Administrator, with ultimate responsibility for Plan administration issues and overseeing investment of Plan assets in accordance with Chapter 175, Florida Statutes and in accordance with the Plan. The Board's responsibility includes, but is not limited to, hiring an enrolled actuary to perform an annual actuarial valuation, using the techniques and assumptions that meet the requirements of Part VII, Chapter 112 of the Florida Statutes; the results of which must be filed in a report to the Florida Division of Retirement, in accordance with requirements detailed in Sections 112.63 and 175.261(2)(b), Florida Statutes; a copy of the annual actuarial report shall also be provided to the County. Further, the Board shall be responsible for assuring disbursement of all Plan benefits, including disability benefits, in accordance with Section 175.191, Florida Statutes.

(b) Past Disability Benefit Approvals

The Parties agree that the enhanced disability benefit the Pension Board previously permitted, as well as any other Plan changes the Board made without City or County approval, have not been provided to new retirees since at least January 11, 1994 and shall not be provided to new retirees after that date. The revised Pension Plan will incorporate this term and limit benefits accordingly.

(c) Pension Board Reporting and Documentation Requirements

- 1) The Pension Board shall abide by all financial and reporting provisions of Chapters 112, Part VII and 175.261, Florida Statutes. All outstanding fund and audit reporting obligations shall be fully satisfied, including completion and submission of delinquent annual audit reports (for 1998, 1999, 2000, and 2001) and annual reports to the State of Florida (for 1998, 1999, 2000, and 2001) within sixty days of this Agreement, with copies provided to the City and County.
- 2) The Pension Board shall meet a minimum of once each quarter as prescribed in Chapter 175.061, Florida Statutes, and minutes of all Board meetings shall be formally documented as public record and copies filed with the Homestead City Clerk.
- 3) The Pension Board shall be responsible for insuring that future Actuarial Valuation Reports are completed by an enrolled actuary and made available to the City and County no later than June 30th each year. The Pension Board shall provide the Plan Actuary all required information within sixty days following the close of each calendar year.

- 4) No future amendments to the Plan shall be implemented unless and until reviewed and approved by the City of Homestead and the County.

Section 9. Plan Changes

Any proposed changes to the Plan must be submitted to the State of Florida, Division of Retirement, for review, accompanied by a corresponding actuarial impact statement in accordance with Chapter 175, Florida Statutes, prior to final reading. Proposed changes shall also be provided to the County before they are implemented. If the County determines that the changes will affect the Plan's ability to meet its obligations, the County may reject the changes.

Section 10. Should the City or Pension Board fail to comply with any provisions specified herein, the County reserves the right to withhold contributions to the Fund.

Section 11. Municipal Loan Provision

The County shall make available sufficient funds for the City to meet contribution obligations to the Fund by providing a line of credit to the City, funded from non-ad valorem tax revenues, in an amount not to exceed \$550,000, at an interest rate equal to the average monthly return on pooled cash earned by the County. At no time shall the outstanding balance on this line of credit exceed the yearly obligation of the City to the Fund and the outstanding balance shall be reduced to zero in the next succeeding fiscal year.

Section 12. City Repayment of Loan

At any point if the City does not meet its deposit obligations to the Plan, or if the City does not reduce its letter of credit outstanding balance to zero as required under Section 11 of this Agreement, the County may withhold, to the extent legally permissible, tax revenue collected by or distributed through the County Finance Department on behalf of the City. Any tax revenue subject to such withholding shall either be transferred to the Fund to satisfy City

obligations or transferred to the County's general fund to reimburse the County for letter of credit draw-downs.

Section 13. This Agreement shall constitute a settlement of any and all disputes related to the respective pension funding obligations of the County and the City pursuant to the 1978 Agreement and neither party shall have the power to pursue any claim related to such pension funding obligation in any court or administrative tribunal, other than an action to enforce this Agreement.

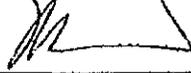
Section 14. Subject to the County's compliance with this Agreement, the Plan also agrees not to bring any suit, claim, demand or action or litigation in any forum or court, whether administrative, judicial or quasi-judicial, state or federal, against Miami-Dade County or the Miami-Dade Fire District and/or any of their employees or agents on any issue or matter or cause of action arising or allegedly arising out of the County's contributions to the Pension Plan.

Section 15. The above provisions numbered Sections 1 through 14 constitute the entire agreement between the parties. No promise, inducement or agreement not herein expressed has been made.

The parties have read the foregoing agreement and fully understand it. - - - -

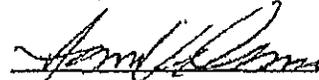
DATED this 10th day of October, 2002.

MIAMI-DADE COUNTY



Thomas David, Chief of Staff,
Assistant County Manager

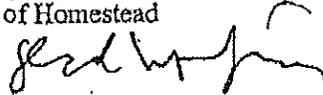
Neil Flaxman
Attorney for Miami-Dade Fire Board



James Adams, Board of Trustees
City of Homestead Fireman's Relief and
Pension Fund



Curt Ivy, City Manager
City of Homestead



David Wolpin, Esq.
Attorney for City of Homestead

Attest: 
City Clerk

ORDINANCE NO 2013-_____

AN ORDINANCE OF THE CITY OF HOMESTEAD, FLORIDA, AMENDING THE FIREFIGHTERS' RETIREMENT PLAN AT ARTICLE IV OF CHAPTER 22.5 "RETIREMENT PROGRAMS" OF THE CITY CODE BY AMENDING SECTIONS 22.5-252 "DEFINITIONS;" 22.5-255 "FINANCES AND FUND MANAGEMENT; ESTABLISHMENT AND OPERATION OF FUND;" "; 22.5-256 "CONTRIBUTIONS;" 22.5-260 "VESTING;" 22.5-261 "OPTIONAL FORMS AND BENEFITS;" 22.5-269 "REPEAL OR TERMINATION OF SYSTEM; TRANSFER TO ANOTHER STATE RETIREMENT SYSTEM;" AND 22.5-274 "DIRECT ROLLOVERS OF PLAN DISTRIBUTIONS" TO COMPLY WITH THE INTERNAL REVENUE CODE AND STATE LAW; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Homestead (the "City") has established the Firefighters Retirement Plan (the "Plan") for the City's firefighters in accordance with Chapter 175, Florida Statutes; and

WHEREAS, the Plan has received a determination letter from the Internal Revenue Service (Exhibit "A") which requires amendment of the Plan to comply with certain provisions of the Internal Revenue Code and the regulations issued thereunder; and

WHEREAS, the Florida Legislature passed Chapter 2009-97, Laws of Florida and Chapter 2011-216, Laws of Florida which requires amendment of the Plan; and

WHEREAS, the Board of Trustees recommends that the City Council approve this Ordinance amending the Plan in order to bring the Plan into compliance with state and federal law; and

WHEREAS, the City Council has reviewed the actuarial impact statement regarding the Plan amendments and finds that approval of this Ordinance is in the best interest of the City, its former employees and its residents.

IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOMESTEAD, FLORIDA AS FOLLOWS:¹

Section 1. Recitals. The above are true and correct and are incorporated herein by this reference.

^{1/} Proposed additions to existing City Code text are indicated by underline; proposed deletions from existing City Code text are indicated by ~~strikethrough~~.

Section 2. City Code Amended. Section 22.5-252, "Definitions," of Article IV of Chapter 22.5 "Retirement Plans," of the City Code is hereby amended to read as follows:

Sec. 22.5-252. Definitions.

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

* * * *

Credited service means the total number of years and fractional parts of years of service 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 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 was a member of the system. If a vested member leaves the employ of the fire department, his accumulated contributions will be returned only upon his written request. If a member who is not vested is not reemployed as a firefighter within five (5) years, his accumulated contributions shall be returned. Upon return of a member's accumulated contributions, all of his rights and benefits under the system are forfeited and terminated. Upon reemployment, a firefighter shall not receive credit for the years and fractional parts of years of service for which he has withdrawn his accumulated contributions from the fund unless he repays into the fund the contributions he has withdrawn, with interest, as determined by the board, within ninety (90) days after his reemployment.

The years or fractional parts of years that a member serves in the military service of the Armed Forces of the United States, voluntarily or involuntarily, after leaving active employment as a firefighter, to perform training or service, shall be added to his years of credited service for all purposes, including vesting, provided that:

- (1) The member returns to his employment as a firefighter within one (1) year from the date of or release from such military service.
- (2) The member is entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act.
- (3) The maximum credit for military service shall be five (5) years.

Credited service shall not be deemed to be interrupted by any authorized leave of absence or vacation, provided that all members similarly situated shall be treated alike pursuant to uniform, nondiscriminatory rules. Notwithstanding any provision of this plan to the contrary, effective as of December 12, 1994, contributions,

benefits and service credit with respect to qualified military service will be provided in accordance with Section 414 of the Code, as amended; USERRA; and Chapter 175, Florida Statutes as applicable.

* * * *

Regular interest means such rate of interest as shall be determined and allowed from time to time by the board, applied by the Board in determining actuarial equivalence.

* * * *

Section 3. City Code Amended. Section 22.5-255, "Finances and Fund Management; Establishment and Operation of Fund," of Article IV of Chapter 22.5 "Retirement Plans," of the City Code is hereby amended to read as follows:

Sec. 22.5-255. - Finances and fund management; establishment and operation of fund.

* * * *

(f) The board, subject to the fiduciary standards in ss. 112.656, 112.661, and 518.11 and the Code of Ethics in ss. 112.311-112.3187, shall have the following investment powers and authority, which may be delegated to one (1) or more investment advisors selected and supervised by the board.

(1) The fund may be invested and reinvested in such securities or property real or personal wherever situated and of whatsoever kind, including but not limited to stocks, common or preferred, bonds and other evidences of indebtedness or ownership. Notwithstanding any other provision of law, the board of trustees may invest up to 25 percent of plan assets in foreign securities on a market-value basis.

* * * *

Section 4. City Code Amended. Section 22.5-256, "Contributions," of Article IV of Chapter 22.5 "Retirement Plans," of the City Code is hereby amended to read as follows:

Sec. 22.5-256. Contributions.

(a) *Member contributions.*

1. *Amount.* Members shall contribute five (5) percent of compensation. Member contributions withheld by the city on behalf of members shall be deposited in the fund immediately after each pay

period. The contributions made by each member to the fund shall be designated as employer contributions pursuant to section 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. No employee shall have the option of choosing to receive the contributed amounts directly instead of having them paid by the city to the System.

* * * *

Section 5. Section 22.5-260, "Vesting," of Article IV of Chapter 22.5 "Retirement Plans," of the City Code is hereby amended to read as follows:

Sec. 22.5-260. Vesting.

* * * *

(b) Any member not otherwise eligible for any other benefits hereunder, but who has a vested interest at time of termination, shall receive monthly benefits commencing on the date that would have been his normal retirement date had he remained in employment. Alternatively, such member may elect to receive his vested benefit, reduced for early retirement, at any time on or after the date that would have been his early retirement date, it being further understood that actuarially equivalent amounts shall be payable under any form or manner of payment provided. Each member shall become 100 percent vested in his/her accrued benefit on his/her normal retirement date.

Section 6. City Code Amended. Section 22.5-261, "Optional Forms of Benefits," of Article IV of Chapter 22.5 "Retirement Plans," of the City Code is hereby amended to read as follows:

Sec. 22.5-261. Optional forms of benefits.

* * * *

(b) A member who elects any option in this section shall designate the beneficiary to receive the benefit, if any, payable under the system in the event of member's death, and will have the power to change such designation ~~from time to time up to two times without approval of the Board or the current joint annuitant or beneficiary. The retired member need not provide proof of the good health of the joint annuitant or beneficiary being removed and the joint annuitant or beneficiary need not be living. from time to time.~~ Such designation shall name one or more primary beneficiaries where applicable. ~~If a member has elected an option with a beneficiary and such member's retirement benefits have commenced, such member may thereafter change his designated beneficiary at any time.~~

~~(e) The board may request such evidence of good health of the beneficiary being removed as it may require.~~

(c d) The consent of a member's or retiree's beneficiary to change thereof shall not be required. The rights of all previously-designated beneficiaries to receive any benefits under the system shall thereupon forever cease.

(d) Upon change of a retiree's beneficiary in accordance herewith, the amount of the monthly benefit payable to the retiree shall be actuarially recalculated to take into account the age and sex of the former beneficiary, of the new beneficiary and of the retiree. Each request for a change shall be made in writing on a form prepared by the board. In the event that no designated beneficiary survives the retiree, such benefits as may be payable in the event of the death of the retiree shall be paid as provided in subsection (a).

* * * *

Section 7. City Code Amended. Section 22.5-269, "Repeal or Termination of System; Transfer to Another State Retirement System," of Article IV of Chapter 22.5 "Retirement Plans," of the City Code is hereby amended to read as follows:

Sec. 22.5-269. Repeal or termination of system; transfer to another state retirement system.

* * * *

- (c) The fund shall be distributed in accordance with the following procedures:
- (1) The Board shall determine the date of distribution and the asset value required to fund all the non-forfeitable benefits after taking into account the expenses of such distribution. The Board shall inform the City if additional assets are required, in which event the City shall continue to financially support the system until all non-forfeitable benefits have been funded.
 - (2) The Board shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each member entitled to benefits under the system as specified in subsection (3).
 - (3) The Board shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection (2) involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the member's accumulated contributions to the system, with interest if provided by the system, less the value of any system benefits previously paid to the member.

(4) If there is asset value remaining after the full distribution specified in subsection (3), and after the payment of any expenses incurred with such distribution, such excess shall be returned to the City, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the City and the state to date of termination of the system, such excess shall be divided proportionately to the total contributions made by the City and the state.

(5) The Board shall distribute, in accordance with subsection (2), the amounts determined under subsection (3).

If, after 24 months after the date the system terminated or the date the Board received written notice that the contributions thereunder were being permanently discontinued, the City or the Board of the system's pension trust fund affected has not complied with all the provisions in this section, the Department of Management Services shall effect the termination of the fund in accordance with this section.

~~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 article, or if contributions to the system are discontinued, with the date of such discontinuation being determined by the board:~~

~~1. 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, in an amount that 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.~~

~~2. If there be any asset value remaining after the apportionment under subsection (1) above, apportionment shall next be made in respect of each member in the service of the city on such date who has service and who is not entitled to an apportionment under subsection (1) above, in an amount required to provide the actuarial equivalent of the accrued normal retirement benefit (but not less than accumulated contributions), based on 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 an 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.~~

~~3. If there be any asset value after the apportionments under subsections (1) and (2), apportionment shall be made in respect of each~~

~~member in service of the city on such date who is not entitled to an apportionment under subsections (1) and (2) 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.~~

~~4. If there be any asset value remaining after the apportionments under subsections (1), (2) and (3), apportionment shall lastly be made in respect of each member included in subsection (3) above to the extent of the actuarial equivalent of the non-vested accrued normal retirement benefit, less the amount apportioned in subsection (3), based on 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.~~

~~5. In the event that there be asset value remaining after the full apportionment specified in subsections (1), (2), (3) and (4), 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 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 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 (\$1,500.00), shall not exceed the greater of either a) twenty thousand dollars (\$20,000.00) or by an amount computed by multiplying the smaller of ten thousand dollars (\$10,000.00) or twenty (20) percent of such member's average annual earnings during his 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 article.~~

~~(d) — After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, then and only then may any remaining funds revert to the general fund of the city and the state pursuant to F.S., § 175.361(3)(d). When every active participant in any pension plan created pursuant to F.S., Ch. 175, elects to transfer to another state retirement system, the pension plan created pursuant to this chapter shall be terminated and the assets distributed in accordance with F.S., § 175.361. If some participants in a pension plan created pursuant to this chapter elect to transfer to another state retirement system and other participants elect to remain in the existing plan created pursuant to this chapter, the plan created pursuant to this chapter shall continue to receive state premium tax moneys until fully funded. If the plan is fully funded at a particular valuation date and not fully funded at a later valuation date, the plan shall resume receipt of state premium tax moneys until the plan is once again fully funded. "Fully funded" means that the present value of all benefits, accrued and projected, is less than the available assets and the present value of future member contributions and future plan sponsor contributions on an actuarial entry age cost funding basis. Effective May 31, 1998, for plans discussed herein, the plan shall remain in effect until the final benefit payment has been made to the last participant or beneficiary and shall then be terminated in accordance with this section.~~

Section 8. City Code Amended. Section 22.5-274, "Direct Rollovers of Plan Distributions," of Article IV of Chapter 22.5 "Retirement Plans," of the City Code is hereby amended to read as follows:

Sec. 22.5-274. Direct rollovers of plan distributions.

(a) Effective date. This section shall apply to distributions made after December 31, 2001. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this section, a distributee may elect, at any time and in any manner prescribed by the Retirement 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. For the purposes of this section the following definitions shall apply:

(1) DIRECT ROLLOVER. A payment by the plan to the eligible retirement plan specified by the distributee. Effective as of January 1, 2008, a non-spouse Beneficiary may make a direct rollover only to an "inherited" individual retirement account as described in Section 408(10) of the IRC.

(2) DISTRIBUTE. 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. Effective as of January 1, 2008, an Employee's or former Employee's non-spouse Beneficiary is a distributee with regard to the interest of the Employee or former Employee.

~~(b) — Modification of definition of eligible retirement plan. For~~

purposes of the direct rollover provisions in section 21 of the system,

(3) ELIGIBLE RETIREMENT PLAN. An individual retirement account described in Section 408(a) of the Code, an individual retirement annuity account described in Section 408(b) of the Code, an individual retirement plan described in Section 403(a) of the Code, or a qualified trust described in § 401(a) of the IRC, that accepts the distributee's eligible rollover distribution. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and 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 and which agrees to separately account for amounts transferred into such plan from this Plan.

~~(c) — Modification of definition of eligible rollover distribution to include after tax employee contributions. For purposes of the direct rollover provisions in this section of the system, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after tax employee contributions which are not includible in gross income. However, such portion may be paid only to an individual retirement account or annuity described in section 108(a) or (b) of the code, or to a qualified defined contribution plan described in section 101 (a) or 103(a) of the code 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.~~

(4) ELIGIBLE ROLLOVER DISTRIBUTION. Any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) of the distributee and the distributee's designated beneficiary, for a specified period of ten 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 includable in gross income.

Section 9. Inclusion In The Code. It is the intention of the City Council that the provisions of this ordinance shall become and be made a part of the Code of Homestead, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 10. Severability. That the provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand

notwithstanding the invalidity of any part.

Section 11. Effective Date. This ordinance shall become effective immediately upon adoption at second reading.

PASSED AND ADOPTED on first reading this ____ day of _____, 2013.

PASSED AND ADOPTED on second reading this ____ day of _____, 2013.

, Mayor

ATTEST:

Elizabeth Sewell, MMC, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

WEISS SEROTA HELFMAN PASTORIZA COLE & BONISKE, P.A
City Attorney

Motion to adopt by:

Seconded by:

FINAL VOTE AT ADOPTION

Mayor
Vice Mayor Jon Burgess
Councilwoman Patricia Fairclough-McCormick
Councilman Elvis Maldonado
Councilman Stephen Shelley
Councilwoman Judy Waldman
Councilman Jimmy L. Williams, III



Gabriel Roeder Smith & Company
Consultants & Actuaries

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June 24, 2013

Board of Trustees
c/o Ms. Lauri Patterson
Benefits USA, Inc.
3810 Inverrary Boulevard
Suite 303
Lauderhill, FL 33319

Re: **Homestead Firefighters Retirement System**

Dear Trustees:

We have reviewed the proposed ordinance that would amend the Homestead Firefighters Retirement System as follows:

- Changes the definition of credited service with respect to qualified military service to comply with Section 414 of the Internal Revenue Code, USERRA, and Chapter 175, Florida Statutes.
- Changes the definition of regular interest from the rate determined by the Board from time to time to the interest applied by the Board in determining actuarial equivalence.
- Adds language subjecting the Board to fiduciary standards in accordance with Florida Statutes.
- Permits up to 25% of the fund's assets to be invested in foreign securities.
- Specifies that member contributions pursuant to Section 414(h) of the Internal Revenue Code shall not be paid to employees instead of the Plan.
- Allows members to become 100% vested upon termination of the Plan.
- Permits retirees to change beneficiary up to two times without providing proof of good health or proving that beneficiary being removed is still alive; the cost for such a change shall be borne by the retiree.
- Amends the procedures for distributing assets in the event of Plan termination.
- Includes definitions related to rollovers.

In our opinion, this amendment will have no actuarial impact on the Plan.

Please note that the changes related to procedures under a plan termination would not have an effect since it is assumed that the Plan will be ongoing when funding requirements are determined. Given the nature of these changes, we do not feel that an estimate for advanced funding is necessary.

Although there is no actuarial impact, this letter should be sent to the Division of Retirement before the second reading of the ordinance.

We welcome your questions and comments.

Sincerely yours,

Jeff Amrose, EA
Senior Consultant & Actuary