

ORDINANCE NO. O-2007-25

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, AMENDING SECTION 10.01 OF THE CITY CHARTER; IMPLEMENTING PENSION PROVISIONS CONTAINED IN THE OCTOBER 1, 2005 - SEPTEMBER 30, 2008 COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND AFSCME, LOCAL 2432.

WHEREAS, the City of Hollywood, Florida and Hollywood, Florida, City Employees Local 2432, American Federation of State, County and Municipal Employees (AFL-CIO) have entered into collective bargaining agreements covering rank-and-file, professional and supervisory bargaining units; and

WHEREAS, these agreements contain amendments to the pension plan in which the members of these three bargaining units participate; and

WHEREAS, the pension plan is codified as Article X of the City Charter; and

WHEREAS, the amendments to the pension plan contained in the agreements must be incorporated into Article X of the City Charter; and

WHEREAS, Section 10.07 of the City Charter provides that Article X of the City Charter, relating to the Employees' Retirement Fund, may be amended by a "majority plus one" vote of the City Commission and 50% plus one of the members of the Employees' Retirement Fund who participate in any election seeking to amend the plan;

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

Section 1: That Subsection 10.01(4) of the City Charter is hereby amended to read as follows:

CHARTER

* * *

ARTICLE X. PENSIONS AND RETIREMENT

Sec. 10.01. Pensions and retirement.

* * *

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

(4) *Credited Service.* Each member shall receive credit for service rendered as an employee as follows:

* * *

(f) Any person who was a member of this plan on June 4, 2003 ~~the effective date of this ordinance~~ and employed by the city on January 3, 2001 may purchase credited service under the plan for all prior periods of city employment in a position eligible for membership in the Plan in accordance with subsection (3), that were not included in the member's credited service; provided that credited service for prior city employment as a CETA, BETA or temporary employee may be purchased only by members who are employed in a position covered by this plan at the time of such purchase. Such member may enter into an agreement at any time prior to separation from city employment to purchase such credited service by paying ~~paying~~ a contribution of seven percent (7%) of the compensation received during the period of prior employment, plus a buy-back fee of four percent (4%) of the total contribution amount. If the total contribution amount and buy-back fee is not fully paid by the time the member leaves city employment, an additional six and one-half percent (6½%) fee will be charged on the unpaid balance remaining when the member separates from city employment. Payments for the purchase of credited service made pursuant to this paragraph must be made using any one or a combination of the following options:

(i) Cash lump sum payment.

(ii) Direct transfer or rollover of an eligible rollover distribution from a qualified plan, in accordance with subsection (25).

(iii) Time payment plan. Under this option the member may elect to pay any remaining balance due for the purchase of credited service through a time payment plan approved by the city and the employee. Under such plan, bi-weekly payments shall be deducted from the member's compensation, and if there is any remaining balance due upon separation from city employment, monthly payments shall be deducted from the member's monthly pension benefit until the remaining balance is fully paid; provided that the deduction shall not exceed twenty percent (20%) of the member's gross monthly pension benefit.

* * *

(i) Notwithstanding any other provision of this Article, effective October 1, 2005, any former member of this plan who is employed as a city police officer on the effective date of this paragraph, and has credited service under this plan with an accrued benefit rate of less than three percent (3%) per year, may purchase the difference between the accrued benefit rate and three percent (3%) per year by paying the full actuarial cost of such difference. Full payment for this additional accrued benefit rate must be made within sixty (60) days following the effective date of this paragraph.

Section 2: That Subsection 10.01(8) of the City Charter is hereby amended to read as follows:

CHARTER

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ARTICLE X. PENSIONS AND RETIREMENT

Sec. 10.01. Pensions and retirement.

* * *

(8) *Deferred Retirement Option Plan.*

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(h) DROP payments shall earn interest at a rate set by the board of trustees, through the date of termination of the member's participation in the DROP. Notwithstanding the preceding sentence, effective July 1, 2006 for members included in the AFSCME General bargaining unit, May 1, 2007 for members included in the AFSCME Professional and Supervisory units, and July 1, 2007 for members not included in any bargaining unit, DROP payments shall earn interest at the same rate as the net rate of investment return on plan assets. Upon termination of a member's participation in the DROP and separation from city employment, the DROP account balance credited to the member shall be distributed to the member under one or a combination of the following options selected by the member in accordance with procedures established by the board:

- (i) A single lump sum payment equal to the balance in the member's DROP account as of the date of termination from the DROP plan; or
- (ii) A direct rollover to a qualified plan or a direct trustee to trustee transfer to an eligible plan retirement account.

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Section 3: That Subsection 10.01(11) of the City Charter is hereby amended to read as follows:

CHARTER

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ARTICLE X. PENSIONS AND RETIREMENT

Sec. 10.01. Pensions and retirement.

* * *

(11) *Supplemental Pension Distribution.*

(a) Effective October 1, 2002, a supplemental pension distribution program shall be established in accordance with this subsection. For the purpose of this subsection, an eligible person is any member who is employed by the city on October 1, 2002 and any member who is receiving benefits from the plan on that date, or the spouse of such member if the member is deceased and the spouse is receiving benefits from the plan. A supplemental pension distribution shall be paid to each eligible person other than a DROP participant who receives retirement benefits from the plan, for each plan year beginning ~~on and after~~ October 1, 2002 through September 30, 2005 in which the net market rate of return on fund assets exceeds the assumed rate of investment return plus two (2) percent. For plan years beginning October 1, 2005 and thereafter, a supplemental pension distribution shall be paid to each eligible person other than a DROP participant who receives retirement benefits from the plan, as follows:

1. For the plan year beginning October 1, 2005, a supplemental pension distribution shall be paid if the net market rate of return on fund assets exceeds the assumed rate of investment return plus three (3) percent.

2. For the plan year beginning October 1, 2006, a supplemental pension distribution shall be paid if the net market rate of return on fund assets exceeds the assumed rate of investment return plus four (4) percent.

3. For plan years beginning October 1, 2007 and thereafter, a supplemental pension distribution shall be paid if the net market rate of return on fund assets exceeds the assumed rate of investment return plus four and one-half (4.5) percent.

(b) For the purpose of this subsection (11), "net market rate of return" means the rate of return on a market value basis net of investment related expenses for each year ending September 30. The total amount of the supplemental pension distribution for a particular fiscal year shall be equal to the actuarial present value of future retirement benefits with respect to eligible retirees multiplied by the excess (not to exceed two percent) of the net market rate of return, over the assumed rate of investment return plus two percent, for the plan years beginning October 1, 2002 and ending on or before September 30, 2005. For plan years beginning October 1, 2005 and thereafter, the total amount of the supplemental pension distribution for a particular fiscal year shall be equal to the actuarial present value of future retirement benefits with respect to eligible retirees multiplied by the excess (not to exceed two percent) of the net market rate of return, over the assumed rate of investment return plus:

1. Three (3) percent for the plan year beginning October 1, 2005;
2. Four (4) percent for the plan year beginning October 1, 2006; and
3. Four and one-half (4.5) percent for plan years beginning October 1, 2007 and thereafter.

(c) For those years in which a supplemental pension distribution is payable, the amount of the supplemental pension distribution paid to each eligible person shall be determined as follows:

1. First, the total amount of the supplemental pension distribution for a particular year shall be divided by the total years of credited service attributable to allocated among all eligible persons who are receiving retirement benefits from the plan (not to exceed 25 years for each eligible person).

2. Then, the amount obtained in subparagraph (1), above, shall be multiplied by the years of credited service attributable to each eligible person (not to exceed 25 years) to produce the amount of the supplemental pension distribution payable to each eligible person, based on the years of credited service of the member upon whose service the person's benefit is based, up to a maximum of 25 years.

(d) The supplemental pension distribution shall not be paid to any member who is participating in the DROP, for as long as the member participates in the DROP. For the purpose of this subsection (11), credited service includes only those periods in which the member contributed a percentage of his/her seven percent of compensation to the fund. The board may adopt rules to implement this subsection.

Section 4: That Subsection 10.01(12) of the City Charter is hereby amended to read as follows:

CHARTER

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ARTICLE X. PENSIONS AND RETIREMENT

Sec. 10.01. Pensions and retirement.

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(12) *Disability Retirement.*

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(e) The amount of a disability retirement benefit payable by reason of injuries sustained while in the performance of an act of duty as an active employee of the city shall be reduced to the extent that the sum of the disability retirement benefit to which the retiree would otherwise be entitled and the retiree's workers compensation benefits exceeds the retiree's average weekly wages at date of retirement. For purposes of this paragraph, "average weekly wages" shall be determined as prescribed in Chapter 440, Florida Statutes (the Workers' Compensation Law).

(f) The amount of a disability retirement benefit shall be reduced annually by the amount of salary received by the member, and by the amount of net earnings from self-employment income received by the member. Neither social security nor workers compensation benefits shall be deemed salary or net earnings from self-employment income under this paragraph. Not later than April 15 of the year following any calendar year in which a member received a disability retirement benefit for the entire year, the member shall submit to the board the first page of his or her federal income tax return. Commencing with the first monthly payment thereafter to which the reduction can be applied, the member's disability retirement benefit for twelve (12) consecutive monthly payments shall be reduced by an amount equal to one-twelfth (1/12) of the salary received by the member and one-twelfth (1/12) of the net earnings from self-employment income received by the member during the preceding calendar year. This paragraph shall not apply to any member who was injured or disabled prior to July 1, 1999. Notwithstanding any other provision of this paragraph, effective October 1, 2005 the provisions of this paragraph shall apply only to disability retirement benefits payable by reason of injuries sustained while in the performance of an act of duty as an active employee of the city; and any member who was receiving non-duty disability retirement benefits on June 1, 2001, or who commenced receiving non-duty disability retirement benefits after that date, shall not be subject to the benefit reduction provided in this paragraph.

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Section 5: That Subsection 10.01(13) of the City Charter is hereby amended to read as follows:

CHARTER

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ARTICLE X. PENSIONS AND RETIREMENT

Sec. 10.01. Pensions and retirement.

* * *

(13) *Death Benefits.*

(a) Effective April 5, 2006 for members included in the AFSCME General bargaining unit, March 7, 2007 for members included in the AFSCME Professional and Supervisory bargaining units, and July 18, 2007 for members not included in any bargaining unit, When an employed member of the employees retirement fund of the City of Hollywood, who is vested, dies before retirement, his or her designated beneficiary (or beneficiaries) shall have the option of receiving the member's contribution to the fund, plus simple interest at the rate of four percent (4%) 4% per year, or benefit payments until his or her own death equal to the benefit payments the deceased member would have received had he or she retired on the day of his or her death having selected to receive his or her annuity under form number 4 5, subsection 10.01(9)(a) 10.01(9)(b) of this Plan.

* * *

Section 6: That Subsection 10.01(14) of the City Charter is hereby amended to read as follows:

CHARTER

* * *

ARTICLE X. PENSIONS AND RETIREMENT

Sec. 10.01. Pensions and retirement.

* * *

(14) *Refund of Member Contributions.*

(a) Any member who separates from city employment may elect to receive shall ~~be entitled to a refund of his or her total contributions plus simple interest at the rate of four percent (4%) per year through the date of separation.~~ Any member who separates from city employment with less than five (5) years of credited service shall receive a refund of his or her total contributions plus simple interest at the rate of four percent (4%) per year.

* * *

Section 7: That it is the intention of the City Commission that the provisions of this ordinance shall become and be made a part of the Charter of the City of Hollywood, Florida, and the provisions of this ordinance may be renumbered to accomplish such intention.

Section 8: 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 9: 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 10: That this ordinance shall be in full force and effect immediately upon its approval by a "majority plus one" vote of the City Commission and 50% plus one of the members of the Employees' Retirement Fund who participate in any election seeking to amend the plan.

ADVERTISED on July 6, 2007.

PASSED on first reading this 3 day of July, 2007.

PASSED AND ADOPTED on second reading this 18 day of July, 2007.


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:


ALAN FALLIK, INTERIM CITY ATTORNEY

7/19/07 pac