

ORDINANCE NO. 3093

AN ORDINANCE OF THE CITY OF RIVIERA BEACH, FLORIDA AMENDING CHAPTER 14, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF RIVIERA BEACH RELATING TO THE RETIREMENT SYSTEM FOR GENERAL EMPLOYEES; AMENDING SECTION 14-21, DEFINITIONS; ADDING SECTION 14-34, INTERNAL REVENUE CODE COMPLIANCE; DELETING SUBSECTION (G) OF 14-25; PROVIDING FOR A REPEALER; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, recent changes to federal laws and regulations require that various amendments be made to the Plan in order to maintain its status as a qualified plan under Section 401(a) of the Internal Revenue Code; and

WHEREAS, the City Council has received an actuarial impact statement from the Plan's actuary relating to the amendments set forth herein; and

WHEREAS, the Administration Board of the General Employees Retirement System have requested and approved such an amendment as being in the best interests of the participants and beneficiaries and improves the administration of the plan, and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH as follows:

Section 1. That the above recitations are true and correct.

Section 2. The following section of Article II is amended by deleting the stricken language and adding the underlined language.

Sec. 14-21. Definitions.

Earnings means basic wages, excluding nonregular overtime, bonuses and any other nonregular payments. Basic wages includes salary, longevity and payments for earned, accrued and unused vacation, sick leave, and unreimbursed overtime, provided, no such payments made to an individual member shall be credited in excess of any limitations which may apply to the majority of members for credit for such payments. Basic wages shall not include severance pay, travel allowances or clothing allowances. Notwithstanding any other provision of this section, current employees, whose accrued and unused vacation and/or sick leave accruals are governed by a written employment contract with the city and who have given the city manager an irrevocable notice of voluntary retirement, said retirement to be effective on or before July 31, 2001, shall be permitted to incorporate accrued and unused vacation and/or sick leave as determined by resolution of the city council. For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in Subsection (a) of Section 14-34 hereof, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code.

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Section 3. Section 14-25(g), Rollover Distributions, of the City of Riviera Beach Retirement System for General Employees is hereby deleted in its entirety.

Section 4. Section 14-34, Internal Revenue Code Compliance, is hereby added as follows.

(a) Maximum Pension

Notwithstanding any provision of this Plan to the contrary, the Annual Pension that is accrued by or paid to a participant shall not exceed the Dollar Limitation set forth below. If the benefit the participant would otherwise accrue in a Limitation Year would produce an Annual Pension in excess of the Dollar Limitation, the benefit shall be limited to a benefit that does not exceed the Dollar Limitation.

(1) Definitions Used in this Section

(A) "Annual Pension" means the benefits received by a participant under this Plan expressed in the form of a straight life annuity. In determining whether benefits payable exceed the Dollar Limitation set forth below, benefits payable in any form other than a straight life annuity shall be adjusted to the larger of:

(i) The annual amount of the straight life annuity (if any) payable to the participant under the plan commencing at the same annuity starting date as the form of benefit payable to the participant; or

(ii) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the participant, computed using a 5 percent interest assumption and the applicable mortality table described in §1.417(e)-1(d)(2) for that annuity starting date.

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

(B) "Dollar Limitation" means \$160,000 (subject to the annual adjustments provided under Section 415(d) of the IRC). Said amount shall be

adjusted based on the age of the participant when benefits begin, as follows:

(i) Except with respect to a participant who is a "Qualified Participant" as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code) beginning before age 62 the Age-Adjusted Dollar Limitation is equal to the lesser of--

(I) the actuarial equivalent of the annual amount of a straight life annuity commencing at the annuity starting date that has the same actuarial present value as a deferred straight life annuity commencing at age 62, where annual payments under the straight life annuity commencing at age 62 are equal to the Dollar Limitation (as adjusted pursuant to section 415(d) for the limitation year), and where the actuarially equivalent straight life annuity is computed using a 5 percent interest rate and the applicable mortality table under §1.417(e)-1(d)(2) that is effective for that annuity starting date (and expressing the participant's age based on completed calendar months as of the annuity starting date); and

(II) the Dollar Limitation (as adjusted pursuant to section 415(d)) multiplied by the ratio of the annual amount of the straight life annuity under the plan to the annual amount of the straight life annuity under the plan commencing at age 62, with both annual amounts determined without applying the rules of section 415.

(ii) For benefits beginning after the age of 65, the age-adjusted Dollar Limitation is equal to the lesser of:

(I) the actuarial equivalent of the annual amount of a straight life annuity commencing at the annuity starting date that has the same actuarial present value as a straight life annuity commencing at age 65, where annual payments under the straight life annuity commencing at age 65 are equal to the dollar limitation of section 415(b)(1)(A) (as adjusted pursuant to section 415(d) for the limitation year), and where the actuarially equivalent straight life annuity is computed using a 5 percent interest rate and the applicable mortality table under §1.417(e)-1(d)(2) that is effective for that annuity starting date (and expressing the participant's age based on completed calendar months as of the annuity starting date); and

(II) the section 415(b)(1)(A) Dollar limitation (as adjusted pursuant to section 415(d) and §1.415(d)-1 for the limitation year) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan to the adjusted age 65 straight life annuity. The adjusted immediately commencing straight life annuity means the annual amount of the immediately commencing straight life annuity payable to the participant, computed disregarding the participant's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are applied to offset accruals. For this purpose, the

annual amount of the immediately commencing straight life annuity is determined without applying the rules of section 415. The adjusted age 65 straight life annuity means the annual amount of the straight life annuity that would be payable under the plan to a hypothetical participant who is 65 years old and has the same accrued benefit (with no actuarial increases for commencement after age 65) as the participant receiving the distribution (determined disregarding the participant's accruals after age 65 and without applying the rules of section 415).

(iii) There shall be no age adjustment of the Dollar Limitation with respect to benefits beginning between the ages of 62 and 65.

(2) The limitations set forth in this Subsection (a) shall not apply if the Annual Pension does not exceed \$10,000 provided the participant has never participated in a Defined Contribution Plan maintained by the City.

(3) Cost-of-living adjustments in the Dollar Limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.

(4) In the case of a participant who has fewer than 10 years of participation in the Plan, the Dollar Limitation set forth in Paragraph (1)(B) of this Subsection (a) shall be multiplied by a fraction - (i) the numerator of which is the number of years (or part thereof) of participation in the Plan, and (ii) the denominator of which is 10.

(5) Any portion of a participant's benefit that is attributable to mandatory employee contributions (unless picked-up by the City) or rollover contributions, shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.

(6) Should any participant participate in more than one defined benefit plan maintained by the City, in any

case in which the participant's benefits under all such defined benefit plans (determined as of the same age) would exceed the Dollar Limitation applicable at that age, the accrual of the participant's benefit under this Plan shall be reduced so that the participant's combined benefits will equal the Dollar Limitation.

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

(8) The determination of the Annual Pension under Paragraph (a)(1) of this Subsection (a) shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements described in § 411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant § 1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.

(9) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this Subsection (a) and the provisions of Section 415 of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this Subsection (a) shall be used to decrease future employer contributions.

(b) Required Beginning Date:

Notwithstanding any other provision of the Plan, payment of a participant's retirement benefits under the Plan shall commence

not later than the participant's Required Beginning Date, which is defined as the later of:

-April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of 70½ years; or

-April 1 of the calendar year that next follows the calendar year in which the participant retires.

(c) Required Minimum Distributions.

(1) Required Beginning Date. The participant's entire interest will be distributed, or begin to be distributed, to the participant no later than the participant's Required Beginning Date as defined in Subsection (b) of this Section 14-34.

(2) Death of participant Before Distributions Begin.

(A) If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70½, if later.

(ii) If the participant's surviving spouse is not the participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

(iii) If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(B) The participant's entire interest shall be distributed as follows:

(i) participant Survived by Designated Beneficiary. If the participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the participant's entire interest will be distributed, beginning no later than the time described in Subparagraph (2)(A) above, over the life of the designated beneficiary or over a period certain not exceeding:

(I) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or

(II) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(ii) No Designated Beneficiary. If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(C) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. In any case in which (i) the participant dies before the date distribution of his or her interest begins, (ii) the participant's surviving spouse is the participant's sole designated beneficiary, and (iii) the surviving spouse dies before distributions to

the surviving spouse begin, Subparagraphs (2)(A) and 2(B) above shall apply as though the surviving spouse were the participant.

(3) Requirements For Annuity Distributions That Commence During participant's Lifetime.

(A) Joint Life Annuities Where the Beneficiary Is Not the participant's Spouse. If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary, annuity payments to be made on or after the participant's Required Beginning Date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(B) Period Certain Annuities. Unless the participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age 70, the applicable distribution period for the participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the

participant's spouse is the participant's sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this Subparagraph (3)(B), or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

(4) Form of Distribution. Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Subparagraphs (4)(A), (4)(B) and (4)(C) below. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

(A) General Annuity Requirements. If the participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(i) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(ii) the distribution period will be over a life (or lives) or over a period certain, not longer than the distribution period described in Paragraphs 2 or 3 above, whichever is applicable, of this Subsection (c) ;

(iii) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(iv) payments will either be non-increasing or increase only as follows:

(I) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(II) to the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period dies or is no longer the participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;

(III) to provide cash refunds of employee contributions upon the participant's death; or

(IV) to pay increased benefits that result from a Plan amendment.

(B) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the participant's Required Beginning Date (or, if the participant dies before distributions begin, the date distributions are required to begin under Subparagraph (2)(A)(i) or (2)(A)(ii), whichever is applicable) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods

for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the participant's Required Beginning Date.

(C) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(5) For purposes of this Subsection (c), distributions are considered to begin on the participant's Required Beginning Date. If annuity payments irrevocably commence to the participant (or to the participant's Surviving Spouse) before the participant's Required Beginning Date (or, if to the participant's Surviving Spouse, before the date distributions are required to begin in accordance with Subparagraph (2)(A) above), the date distributions are considered to begin is the date distributions actually commence.

(6) Definitions.

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

(B) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's Required Beginning Date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in

which distributions are required to begin pursuant to Paragraph (2) of this Subsection (c).

(C) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(d) Eligible rollover distributions:

(1) Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this subsection, a distributee may elect, at the time and in the manner prescribed by the board of trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(2) Definitions:

(A) Eligible rollover distribution: An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one (1) 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 often (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 includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

(B) Eligible retirement plan: An eligible retirement plan is an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case

of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. An eligible retirement plan shall also mean, with respect to distributions made after December 31, 2001, 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. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a domestic relation order, as defined in Section 414(p) of the Code.

(C) Distributee: A distributee includes a participant or former participant.

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

(e) Notwithstanding any other provision of this Plan, the maximum amount of any mandatory distribution, as defined in Section 401(a)(31) of the Code, payable under the Plan shall be \$1000.

(f) Compensation Limitations Under 401(a)(17):

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the annual compensation of each participant taken into account under the Plan shall not exceed the EGTRRA annual compensation limit for limitation years beginning after December 31, 2001. The EGTRRA annual compensation limit is \$200,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the EGTRRA annual compensation limit will be multiplied by a fraction, the numerator of which is the number of

months in the determination period, and the denominator of which is 12.

Any reference in the Plan to the limitation under Section 401 (a)(17) of the Code shall mean the EGTRRA annual compensation limit set forth in this provision.

Section 5. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, all charter sections or parts of sections, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict. The Sections of this Ordinance may be renumbered or re-lettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

Section 6. 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 7. Codification of this ordinance in the City Code of Ordinances is hereby authorized and directed.

Section 8. The provisions of this ordinance shall take effect immediately upon adoption.

PASSED AND APPROVED on first reading this 1st day of JUNE, 2011.

PASSED AND APPROVED on second and final reading this 2nd day of JUNE, 2011

APPROVED:

THOMAS A. MASTERS
MAYOR

(MUNICIPAL SEAL)

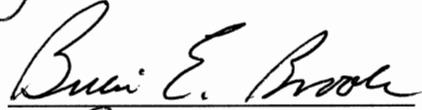
ATTEST:



CARRIE E. WARD, MMC
CITY CLERK



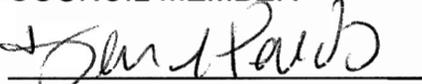
JUDY L. DAVIS
CHAIRPERSON



BILLIE E. BROOKS
CHAIR PRO TEM



CEDRICK A. THOMAS
COUNCIL MEMBER



DAWN S. PARDO
COUNCIL MEMBER



SHELBY L. LOWE
COUNCIL MEMBER

1ST READING

2ND & FINAL READING

MOTIONED BY: C. Thomas

MOTIONED BY: S. Lowe

SECONDED BY: D. Pardo

SECONDED BY: D. Pardo

J. DAVIS AYE

J. DAVIS AYE

B. BROOKS AYE

B. BROOKS Absent

C. THOMAS AYE

C. THOMAS AYE

D. PARDO AYE

D. PARDO AYE

S. LOWE AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA H. RYAN
CITY ATTORNEY

DATE: 5/24/11

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CERTIFICATION OF PUBLICATION

I hereby certify that notice of the proposed enactment of this Ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

June 1, 2011
DATE

C. E. Ward
CARRIE E. WARD, MMC
CITY CLERK

ORDINANCE NO. 3094

AN ORDINANCE OF THE CITY OF RIVIERA BEACH, FLORIDA, AMENDING CHAPTER 14, ARTICLE IV OF THE CODE OF ORDINANCES OF THE CITY OF RIVIERA BEACH RELATING TO THE POLICE OFFICERS' PENSION PLAN; TO PROVIDE FOR COMPLIANCE WITH THE INTERNAL REVENUE CODE; PROVIDING FOR A REPEALER; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, recent changes to federal laws and regulations require that various amendments be made to the Plan in order to maintain its status as a qualified plan under Section 401(a) of the Internal Revenue Code; and

WHEREAS, the City Council has received an actuarial impact statement from the Plan's actuary relating to the amendments set forth herein; and

WHEREAS, the Administration Board of the Riviera Beach Police Pension Plan have requested and approved such an amendment as being in the best interests of the participants and beneficiaries and improves the administration of the plan, and

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH as follows:

Section 1. That the above recitations are true and correct.

Section 2. That Chapter 14, Article IV, Section 14-72, Definitions, of the Riviera Beach Police Pension Fund is hereby amended by deleting the stricken language and adding the underlined language as follows:

Sec. 14-72. Definitions.

...

Salary and compensation mean the total cash remuneration paid to a police officer for services rendered, and shall include those items as have been included as compensation in accordance with past practice and F.S. § 185.02(4), and shall also include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Police Officer and which is not includible in the gross income of the Police Officer by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in Subsection (a) of Section 14-90 hereof, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Police Officer by reason of Section 132(f)(4) of the Internal Revenue Code.

...

Section 3. That Chapter 14, Article IV, Section 14-89, Effective date; Compliance with Internal Revenue Code, of the Riviera Beach Police Pension Fund is hereby amended by deleting the stricken language and adding the underlined language as follows:

PENDING DR INPUT

Section 4. That Chapter 14, Article IV, Section 14-90, Limits on pension and disability benefits, of the Riviera Beach Police Pension Fund is hereby amended by deleting the stricken language and adding the underlined language as follows:

**Sec. 14-90. Limits on pension and disability benefits
Compliance with Internal Revenue Code.**

~~A participant may not receive a pension or disability benefit which exceeds the lesser of:~~

~~(1) 100 percent of the participant's average compensation for the highest three consecutive years as a participant in the pension plan; or~~

~~(2) The maximum amount allowed under section 415(b) of the Internal Revenue Code which is incorporated herein by reference. This amount shall not be reduced below \$50,000.00 (or as increased by the cost of living adjustment factor prescribed under section 415(d) of the Internal Revenue Code).~~

(a) Maximum Pension.

Notwithstanding any provision of this Plan to the contrary, the Annual Pension that is accrued by or paid to a participant shall not exceed the Dollar Limitation set forth below. If the benefit the participant would otherwise accrue in a Limitation Year would produce an Annual Pension in excess of the Dollar Limitation, the benefit shall be limited to a benefit that does not exceed the Dollar Limitation.

(1) Definitions Used in this Section

(A) "Annual Pension" means the benefits received by a participant under this Plan expressed in the form of a straight life annuity. In determining whether benefits payable exceed the Dollar Limitation set forth below, benefits payable in any form other than a straight life annuity shall be adjusted to the larger of:

(i) The annual amount of the straight life annuity (if any) payable to the participant under the plan commencing at the same annuity starting date as the form of benefit payable to the participant; or

(ii) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the participant, computed using

a 5 percent interest assumption and the applicable mortality table described in §1.417(e)-1(d)(2) for that annuity starting date.

No actuarial adjustment to the benefit shall be made for benefits that are not directly related to retirement benefits (such as a qualified disability benefit, preretirement incidental death benefits, and postretirement medical benefits); or the inclusion in the form of benefit of an automatic benefit increase feature, provided the form of benefit is not subject to §417(e)(3) of the Internal Revenue Code and would otherwise satisfy the limitations of this Subsection (a), and the amount payable under the form of benefit in any Limitation Year shall not exceed the limits of this Subsection (a) of Section 14-90 applicable at the annuity starting date, as increased in subsequent years pursuant to § 415(d) of the Code. For this purpose, an automatic benefit increase feature is included in a form of benefit if the form of benefit provides for automatic, periodic increases to the benefits paid in that form.

(B) “Dollar Limitation” means \$160,000 (subject to the annual adjustments provided under Section 415(d) of the IRC). Said amount shall be adjusted based on the age of the participant when benefits begin, as follows:

(i) Except with respect to a participant who is a “Qualified Participant” as defined in Section 415(b)(2)(H) of the Code, for benefits (except survivor and disability benefits as defined in Section 415(b)(2)(I) of the Code) beginning before age 62 the Age-Adjusted Dollar Limitation is equal to the lesser of--

(l) the actuarial equivalent of the annual amount of a straight life annuity commencing at the annuity starting date that has the same actuarial present value as a deferred straight life annuity commencing at age 62, where annual payments under the straight life annuity commencing at age 62 are equal to the Dollar Limitation

(as adjusted pursuant to section 415(d) for the limitation year), and where the actuarially equivalent straight life annuity is computed using a 5 percent interest rate and the applicable mortality table under §1.417(e)-1(d)(2) that is effective for that annuity starting date (and expressing the participant's age based on completed calendar months as of the annuity starting date); and

(II) the Dollar Limitation (as adjusted pursuant to section 415(d)) multiplied by the ratio of the annual amount of the straight life annuity under the plan to the annual amount of the straight life annuity under the plan commencing at age 62, with both annual amounts determined without applying the rules of section 415.

(ii) For benefits beginning after the age of 65, the age-adjusted Dollar Limitation is equal to the lesser of:

(I) the actuarial equivalent of the annual amount of a straight life annuity commencing at the annuity starting date that has the same actuarial present value as a straight life annuity commencing at age 65, where annual payments under the straight life annuity commencing at age 65 are equal to the dollar limitation of section 415(b)(1)(A) (as adjusted pursuant to section 415(d) for the limitation year), and where the actuarially equivalent straight life annuity is computed using a 5 percent interest rate and the applicable mortality table under §1.417(e)-1(d)(2) that is effective for that annuity starting date (and

expressing the participant's age based on completed calendar months as of the annuity starting date); and

(II) the section 415(b)(1)(A) Dollar limitation (as adjusted pursuant to section 415(d) and §1.415(d)-1 for the limitation year) multiplied by the ratio of the annual amount of the adjusted immediately commencing straight life annuity under the plan to the adjusted age 65 straight life annuity. The adjusted immediately commencing straight life annuity means the annual amount of the immediately commencing straight life annuity payable to the participant, computed disregarding the participant's accruals after age 65 but including actuarial adjustments even if those actuarial adjustments are applied to offset accruals. For this purpose, the annual amount of the immediately commencing straight life annuity is determined without applying the rules of section 415. The adjusted age 65 straight life annuity means the annual amount of the straight life annuity that would be payable under the plan to a hypothetical participant who is 65 years old and has the same accrued benefit (with no actuarial increases for commencement after age 65) as the participant receiving the distribution (determined disregarding the participant's accruals after age 65 and without applying the rules of section 415).

(iii) There shall be no age adjustment of the Dollar Limitation with respect to benefits beginning between the ages of 62 and 65.

(2) The limitations set forth in this Subsection (a) of Section 14-90 shall not apply if the Annual Pension does not exceed \$10,000 provided the participant has never participated in a Defined Contribution Plan maintained by the City.

(3) Cost-of-living adjustments in the Dollar Limitation for benefits shall be limited to scheduled annual increases determined by the Secretary of the Treasury under Section Subsection 415(d) of the Code.

(4) In the case of a participant who has fewer than 10 years of participation in the Plan, the Dollar Limitation set forth in Paragraph (1)(B) of this Section (a) shall be multiplied by a fraction - (i) the numerator of which is the number of years (or part thereof) of participation in the Plan, and (ii) the denominator of which is 10.

(5) Any portion of a participant's benefit that is attributable to mandatory employee contributions (unless picked-up by the City) or rollover contributions, shall be taken into account in the manner prescribed in the regulations under Section 415 of the Code.

(6) Should any participant participate in more than one defined benefit plan maintained by the City, in any case in which the participant's benefits under all such defined benefit plans (determined as of the same age) would exceed the Dollar Limitation applicable at that age, the accrual of the participant's benefit under this Plan shall be reduced so that the participant's combined benefits will equal the Dollar Limitation.

(7) For a participant who has or will have distributions commencing at more than one annuity starting date, the Annual Benefit shall be determined as of each such annuity starting date (and shall satisfy the limitations of this Section as of each such date), actuarially adjusting for past and future distributions of benefits commencing at the other annuity starting dates. For this purpose, the determination of whether a new starting date has occurred shall be made without regard to § 1.401(a)-20, Q&A 10(d), and with regard to §

1.415(b)1(b)(1)(iii)(B) and (C) of the Income Tax Regulations.

(8) The determination of the Annual Pension under Paragraph (a)(1) of this Subsection (a) of Section 14-90 shall take into account (in the manner prescribed by the regulations under Section 415 of the Code) social security supplements described in § 411(a)(9) of the Internal Revenue Code and benefits transferred from another defined benefit plan, other than transfers of distributable benefits pursuant § 1.411(d)-4, Q&A-3(c) of the Income Tax Regulations.

(9) The above limitations are intended to comply with the provisions of Section 415 of the Code, as amended, so that the maximum benefits provided by plans of the City shall be exactly equal to the maximum amounts allowed under Section 415 of the Code and regulations thereunder. If there is any discrepancy between the provisions of this Subsection (a) of Section 14-90 of the Plan and the provisions of Section 415 of the Code and regulations thereunder, such discrepancy shall be resolved in such a way as to give full effect to the provisions of Section 415 of the Code. The value of any benefits forfeited as a result of the application of this Subsection (a) of Section 14-90 shall be used to decrease future employer contributions.

(b) Required Beginning Date:

Notwithstanding any other provision of the Plan, payment of a participant's retirement benefits under the Plan shall commence not later than the participant's Required Beginning Date, which is defined as the later of:

-April 1 of the calendar year that next follows the calendar year in which the participant attains or will attain the age of 70½ years; or

-April 1 of the calendar year that next follows the calendar year in which the participant retires.

(c) Required Minimum Distributions.

(1) Required Beginning Date. The participant's entire interest will be distributed, or begin to be

distributed, to the participant no later than the participant's Required Beginning Date as defined in Subsection (b) of this Section 14-90.

(2) Death of participant Before Distributions Begin.

(A) If the participant dies before distributions begin, the participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the participant's surviving spouse is the participant's sole designated beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the participant died, or by December 31 of the calendar year in which the participant would have attained age 70½, if later.

(ii) If the participant's surviving spouse is not the participant's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the participant died.

(iii) If there is no designated beneficiary as of September 30 of the year following the year of the participant's death, the participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(B) The participant's entire interest shall be distributed as follows:

(i) participant Survived by Designated Beneficiary. If the participant dies before the date distribution of his or her interest begins and there is a designated beneficiary, the participant's entire interest will be distributed, beginning no later than

the time described in Subparagraph (2)(A) above, over the life of the designated beneficiary or over a period certain not exceeding:

(I) unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the participant's death; or

(II) if the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(ii) No Designated Beneficiary. If the participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the participant's death, distribution of the participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the participant's death.

(C) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. In any case in which (i) the participant dies before the date distribution of his or her interest begins, (ii) the participant's surviving spouse is the participant's sole designated beneficiary, and (iii) the surviving spouse dies before distributions to the surviving spouse begin, Subparagraphs (2)(A) and 2(B) above shall apply as though the surviving spouse were the participant.

(3) Requirements For Annuity Distributions That Commence During participant's Lifetime.

(A) Joint Life Annuities Where the Beneficiary Is Not the participant's Spouse. If the participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary, annuity payments to be made on or after the participant's Required Beginning Date to the designated beneficiary after the participant's death must not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6T of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the participant and a nonspousal beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(B) Period Certain Annuities. Unless the participant's spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the participant's lifetime may not exceed the applicable distribution period for the participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the participant reaches age 70, the applicable distribution period for the participant is the distribution period for age 70 under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of the participant as of the participant's birthday in the year that contains the annuity starting date. If the participant's spouse is the participant's sole designated beneficiary and the form of

distribution is a period certain and no life annuity, the period certain may not exceed the longer of the participant's applicable distribution period, as determined under this Subparagraph (3)(B), or the joint life and last survivor expectancy of the participant and the participant's spouse as determined under the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury regulations, using the participant's and spouse's attained ages as of the participant's and spouse's birthdays in the calendar year that contains the annuity starting date.

(4) Form of Distribution. Unless the participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Subparagraphs (4)(A), (4)(B) and (4)(C) below. If the participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Section 401(a)(9) of the Code and the Treasury regulations. Any part of the participant's interest which is in the form of an individual account described in Section 414(k) of the Code will be distributed in a manner satisfying the requirements of Section 401(a)(9) of the Code and the Treasury regulations that apply to individual accounts.

(A) General Annuity Requirements. If the participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(i) the annuity distributions will be paid in periodic payments made at intervals not longer than one year;

(ii) the distribution period will be over a life (or lives) or over a period certain, not longer than the distribution period described in Paragraphs 2 or 3 above, whichever is applicable, of this Subsection (c);

(iii) once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted;

(iv) payments will either be non-increasing or increase only as follows:

(I) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(II) to the extent of the reduction in the amount of the participant's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period dies or is no longer the participant's beneficiary pursuant to a qualified domestic relations order within the meaning of Section 414(p) of the Code;

(III) to provide cash refunds of employee contributions upon the participant's death; or

(IV) to pay increased benefits that result from a Plan amendment.

(B) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the participant's Required Beginning Date (or, if the participant dies before distributions begin, the date distributions are required to begin under Subparagraph (2)(A)(i) or (2)(A)(ii), whichever is applicable) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the

periods for which payments are received, e.g., bi-monthly, monthly, semi-annually, or annually. All of the participant's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the participant's Required Beginning Date.

(C) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the participant in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

(5) For purposes of this Subsection (c), distributions are considered to begin on the participant's Required Beginning Date. If annuity payments irrevocably commence to the participant (or to the participant's Surviving Spouse) before the participant's Required Beginning Date (or, if to the participant's Surviving Spouse, before the date distributions are required to begin in accordance with Subparagraph (2)(A) above), the date distributions are considered to begin is the date distributions actually commence.

(6) Definitions.

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

(B) Distribution calendar year. A calendar year for which a minimum distribution is required. For distributions beginning before the participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the participant's Required Beginning Date. For distributions beginning after the participant's death, the first distribution calendar year is the calendar year in

which distributions are required to begin pursuant to Paragraph (2) of this Subsection (c).

(C) Life expectancy. Life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the Treasury regulations.

(d) (1) 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 the time and in the manner prescribed by the Administrator, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(2) Definitions

The following definitions apply to this Section:

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

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

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

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

(iv) the portion of any distribution that is not includible in gross income (determined

without regard to the exclusion for net unrealized appreciation with respect to employer securities), provided that 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 transferred only to an individual retirement account or annuity described in Section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in Section 401(a) or 403(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.

(3) 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 annuity contract described in Section 403(b) of the Code, a qualified trust described in Section 401 (a) of the Code, 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, or, with respect to distributions on or after January 1, 2008, a Roth IRA (subject to the limitations of Code Section 408A(c)(3)) that accepts the distributee's eligible rollover distribution.

(4) Distributee: A distributee includes an Employee or former Employee. In addition, the Employee's or former Employee's surviving spouse and the Employee's or former Employee's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code, are distributees with regard to the interest of the spouse or former spouse. Furthermore, effective

January 1, 2007, a surviving designated beneficiary as defined in Section 401(a)(9)(E) of the Code who is not the surviving spouse and who elects a direct rollover to an individual retirement account described in Section 408(a) of the Code or an individual retirement annuity described in Section 408(b) of the Code shall be considered a distributee.

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

(e) Notwithstanding any other provision of this Plan, the maximum amount of any mandatory distribution, as defined in Section 401(a)(31) of the Code, payable under the Plan shall be \$1000.

(f) Compensation Limitations Under 401(a)(17).

In addition to other applicable limitations set forth in the Plan, and notwithstanding any other provision of the Plan to the contrary, the annual compensation of each participant taken into account under the Plan shall not exceed the EGTRRA annual compensation limit for limitation years beginning after December 31, 2001. The EGTRRA annual compensation limit is \$200,000, as adjusted by the Commissioner for increases in the cost of living in accordance with Section 401(a)(17)(B) of the Code. The cost-of-living adjustment in effect for a calendar year applies to any period, not exceeding 12 months, over which Compensation is determined (determination period) beginning in such calendar year. If a determination period consists of fewer than 12 months, the EGTRRA annual compensation limit will be multiplied by a fraction, the numerator of which is the number of months in the determination period, and the denominator of which is 12.

Any reference in the Plan to the limitation under Section 401 (a)(17) of the Code shall mean the EGTRRA annual compensation limit set forth in this provision.

(g) At no time prior to the satisfaction of all liabilities under the plan with respect to 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.

Section 5. That Chapter 14, Article IV, Section 14-91, Required distributions, of the Riviera Beach Police Pension Fund is hereby repealed/deleted in its entirety and such section reserved for future use.

Any references to Sec. 14-91 shall be amended to refer to Sec. 14-90:

Sec. 14-91. ~~Required distributions~~ Reserved.

~~(a) In accordance with Internal Revenue Code section 401(a)(9), all benefits under this plan will be distributed, beginning not later than the required beginning date set forth below, over a period not extending beyond the life expectancy of the police officers or the life expectancy of the police officer and a beneficiary designated in accordance with section 14-77.~~

~~(b) Any and all benefit payments shall begin by the later of:~~

~~(1) April 1 of the calendar year following the calendar year of the member's retirement date; or~~

~~(2) April 1 of the calendar year following the calendar year in which the member attains age 70½.~~

~~(c) If an employee dies before his entire vested interest has been distributed to him, the remaining portion of such interest will be distributed at least as rapidly as provided for under section 14-76.~~

Section 6. That Chapter 14, Article IV, Section 14-92, Rollover distributions, of the Riviera Beach Police Pension Fund is hereby repealed/deleted in its entirety and such section reserved for future use.

Any reference to Sec. 14-92 should refer to Sec. 14-90:

Sec. 14-92. ~~Rollover distributions~~ Reserved.

~~(a) *Application.* This section applies to distributions made on or after January 1, 1993. 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 the time and in the manner prescribed by the board of trustees, 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) — *Direct rollover.* means a payment by the plan to the eligible retirement plan specified by the distributee.~~

~~(2) — *Distributee* includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a domestic relations order determined to be qualified by this fund in accordance with *Alvarez v. Board of Trustees*, 580 So. 2d 151 (Fla. 1991), are distributees with regard to the interest of the spouse or former spouse.~~

~~(3) — *Eligible retirement plan* means an individual retirement account described in section 408(a) of the Internal Revenue Code, an individual retirement annuity described in section 408(b) of the Internal Revenue Code, an annuity plan described in section 403(a) of the Internal Revenue Code, or a qualified trust described in section 401(a) of the Internal Revenue Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.~~

~~(4) — *Eligible rollover distribution* means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover 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 years or more; any distribution to the extent such~~

ORDINANCE NO. 3094

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~~distribution is required under section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.~~

Section 7. That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, all charter sections or parts of sections, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict. The Sections of this Ordinance may be renumbered or re-lettered to accomplish this intention and the word "Ordinance" may be changed to "Section", "Article" or other appropriate word as the codifier may deem fit.

Section 8. 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. Codification of this ordinance in the City Code of Ordinances is hereby authorized and directed.

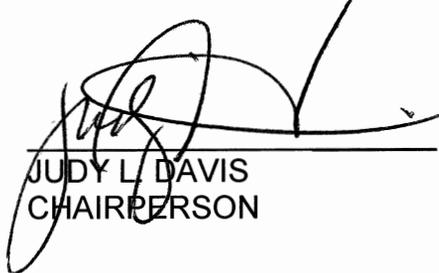
Section 10. The provisions of this ordinance shall take effect immediately upon adoption.

PASSED AND APPROVED on first reading this 1st day of JUNE, 2011.

PASSED AND APPROVED on second and final reading this 15th day of JUNE, 2011.

APPROVED:

THOMAS A. MASTERS
MAYOR



JUDY L. DAVIS
CHAIRPERSON

(MUNICIPAL SEAL)

BILLIE E. BROOKS
CHAIR PRO TEM

Absent

ATTEST:



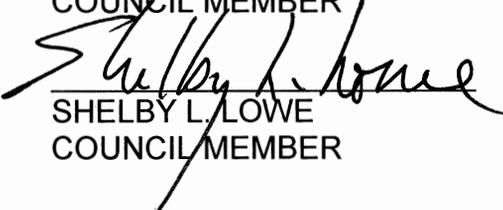
CARRIE E. WARD, MMC/AAE
CITY CLERK



CEDRICK A. THOMAS
COUNCIL MEMBER



DAWN S. PARDO
COUNCIL MEMBER



SHELBY L. LOWE
COUNCIL MEMBER

RIVIERA BEACH POLICE PENSION FUND
ACTUARIAL COST ESTIMATE – OCTOBER 7, 2010

Description of Proposed Amendment

- Amend section 14-72 by further defining compensation to suit the limitations set by the Internal Revenue Code.
- Amend section 14-90 by adding language in order to comply with the limitations set by the Internal Revenue Code for pension benefits, distributions, and rollovers.
- Amend section 14-91 “Required distributions”, by removing the entire section.
- Amend section 14-92 “Rollover distributions”, by removing the entire section.

Data and Assumptions

The data and experience estimates used for the cost estimate were the same as used for the September 30, 2009 actuarial valuation.

Contribution Implications of the Amendment

The effect of the proposed changes on the City’s contributions and obligations is de minimis.



Brad Lee Armstrong, A.S.A. E.A. [08-5614]

10/7/2010

1ST READING

MOTIONED BY: C. Thomas

SECONDED BY: B. Brooks

J. DAVIS AYE

B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

2ND & FINAL READING

MOTIONED BY: C. Thomas

SECONDED BY: D. Pardo

J. DAVIS AYE

B. BROOKS Absent

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY

Pamala H. Ryan
PAMALA H. RYAN
CITY ATTORNEY

DATE: 5/25/11

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CERTIFICATION OF PUBLICATION

I hereby certify that notice of the proposed enactment of this Ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

June 1, 2010
DATE

Carrie E. Ward
CARRIE E. WARD, MMC
CITY CLERK

ORDINANCE NO. 3095

AN ORDINANCE OF THE CITY OF RIVIERA BEACH, FLORIDA, AMENDING CHAPTER 14, ARTICLE IV OF THE CODE OF ORDINANCES OF THE CITY OF RIVIERA BEACH RELATING TO THE POLICE OFFICERS' PENSION PLAN; AMENDING SECTION 14-75, BOARD OF TRUSTEES, CREATED, POWERS, DUTIES; AMENDING SECTION 14-77, OPTIONAL FORMS OF RETIREMENT INCOME; AMENDING SECTION 14-85, PAYMENT OF MEMBER CONTRIBUTIONS, PAST CONTINUOUS SERVICE; AMENDING SECTION 14-86, EXEMPTION FROM EXECUTION; AMENDING SECTION 14-93, REPEAL OR TERMINATION OF FUND; TO PROVIDE FOR COMPLIANCE WITH CHAPTER 2009-97, LAWS OF FLORIDA; PROVIDING FOR A REPEALER; PROVIDING FOR A SAVINGS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the 2009 Florida Legislature enacted Chapter 2009-97, Law of Florida, which mandates certain amendments to the Riviera Beach Police Pension Fund; and

WHEREAS, recent changes to State statutes require several amendments to the Plan in order to maintain eligibility for receipt of state premium tax revenues; and

WHEREAS, an amendment to the City code is necessary to permit such new obligations and conditions; and

WHEREAS, the trustees of the Riviera Beach Police Pension Fund have requested and approved the amendments provided herein as being in the best interests of the participants and beneficiaries and improving the administration of the plan, and

WHEREAS, the City Council has received and reviewed an actuarial impact statement related to this change and attached as such; and

WHEREAS, the City Council deems it to be in the public interest to provide this change to the pension plan for its police officer employees;

NOW, THEREFORE, THE CITY OF RIVIERA BEACH HEREBY ORDAINS:

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

Section 2. That Section 14-75(a) and (g)(1) of Article IV, Chapter 14 of the Riviera Beach Code is hereby amended as follows:

Sec. 14-75. Board of trustees; created, powers, duties.

- (a) There is hereby created a board of trustees of the city police pension fund. The board of trustees shall consist of five members. Two of such members, unless otherwise prohibited by law, shall be legal residents of the city and shall be appointed by the city council. Two of such members shall be police officers and shall be elected by a majority of the police officers who are members of this pension fund. The fifth member shall be chosen by a majority of the previous four members, and such person's name shall be submitted to the city council. Upon receipt of the fifth person's name, the city council shall, as a ministerial duty, appoint such person to the board of trustees as its fifth member. The fifth member shall have the same rights as each of the other four members pointed or elected as herein provided

and may succeed ~~himself~~ him or herself in office. Each resident member shall serve as trustee for a period of two years, unless sooner replaced by the city council at whose pleasure ~~he~~ the trustee shall serve, and may succeed ~~himself~~ him or herself as a trustee. Each elected police officer member shall serve as trustee for a period of two years, unless ~~he~~ the member sooner leaves the employment of the city as a police officer, whereupon the police officers ~~city council~~ shall choose the police officer trustee's ~~his~~ successor in the same manner as an original elected officer trustee ~~appointment~~. Each police officer may succeed ~~himself~~ him or herself in office.

* * *

(g) The board of trustees may:

(1) Invest and reinvest the assets of the retirement trust fund in:

a. Time or savings accounts of a national bank, a state bank or a savings and loan association insured by the Bank Insurance Fund or a savings, building, and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation, or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

b. Obligations of the United States or obligations guaranteed as to principal and interest by the United States.

c. Bonds issued by the State of Israel.

d. Bonds, stocks, or other evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided:

(i) The corporation is listed on any one or more of the recognized national stock exchanges and, in the case of bonds only, holds a rating in one of the three highest classifications by a major rating service; and

(ii) The board of trustees shall not invest more than five percent of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five percent of the outstanding stock of the company or the aggregate of its investment under this subparagraph at cost exceed 50 percent of the funds assets; and

(iii) The board of trustees shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in Florida Statutes, Section 215.473, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in such company beginning January 1, 2010 and shall thereafter be prohibited from purchasing or holding such securities. The divestiture of any such security must be completed by September 30, 2010. In accordance with Ch. 2009-97, Laws of Florida, no person may bring any civil, criminal, or administrative action against the board or any employee, officer, director, or advisor of such board based upon the divestiture of any security pursuant to this paragraph.

e. Interests in or obligations secured by real property, the cost of which shall not exceed five percent of the fund's assets.

Notwithstanding any other provision of law to the contrary, the board of trustees may invest up to ~~ten~~ twenty-five percent of fund assets, at market value, in foreign securities.

Section 3. That Section 14-77(b) of Article IV, Chapter 14 of the Riviera Beach Code is hereby amended as follows:

(b) The police officer upon electing any option of this section will designate the joint pensioner or beneficiary (or beneficiaries) to receive the benefit, if any, payable under this article, 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 of trustees. Such designation will name a joint pensioner or one or more primary beneficiaries where applicable. If a police officer has elected an option with a joint pensioner or beneficiary and his retirement income benefits have commenced, he may thereafter change his or her joint pensioner or beneficiary up to two times without the approval of the Board or the current designated survivor. The police officer need not provide proof of the good health of the joint pensioner or beneficiary being removed, and the joint pensioner or beneficiary being removed need not be living. ~~designated joint pensioner or beneficiary, but only if the board of trustees consents to such change and if the joint pensioner last previously designated by him is alive when he files with the board of trustees the request for such change. The consent of a police officer's joint petitioner or beneficiary to any such change shall not be required. The board of trustees may request such evidence of the good health of the joint pensioner that is being removed as it may require and the~~ The amount of the retirement income payable to the police officer upon the designation of a new joint pensioner shall be actuarially redetermined taking into account the ages and sex of the former joint pensioner, the new joint pensioner, and the police officer. Each such designation will be made in writing on

a form prepared by the board of trustees, and on completion will be filed with the board of trustees. If no designated beneficiary survives the police officer, such benefits as are payable in the event of the death of the police officer subsequent to his retirement shall be paid as provided in section 14-78.

Section 4. That Section 14-83 of Article IV, Chapter 14 of the Riviera Beach Code is hereby amended as follows:

Sec. 14-83. Death prior to retirement; refunds of contributions or payment of death benefits.

(a) Should any police officer die before being eligible to retire under the provisions of this article, the heirs, legatees, beneficiaries or personal representative of such deceased police officer shall be entitled to a refund of 100 percent, with interest not to exceed four percent per annum, of the contributions made to the pension fund by such deceased police officer or, if an annuity or life insurance contract has been purchased by the board on such police officer, then to the death benefits available under such life insurance or annuity contract, subject to the limitations on such death benefits set forth in F.S. § 185.061, whichever amount is greater. If any police officer dies prior to retirement but has at least ten years of contributing service, his beneficiary is entitled to the benefits otherwise payable to the police officer at early or normal retirement age. If the death benefit paid by a life insurance company exceeds the limit set forth in F.S. § 185.061(6), the excess of the death benefit over the limits shall be paid to the pension fund. However, the benefits as provided in F.S. §§ 112.19 and 112.1904 shall not be included as death or retirement benefits under the provisions of this article.

(b) In the event a Member dies on or after January 1, 2007, while performing USERRA Qualified Military Service, the beneficiaries of the Member are entitled to any benefits (other than benefit accruals relating to the period of qualified military

service) as if the Member had resumed employment and then died while employed.

Section 5. That Section 14-85 of Article IV, Chapter 14 of the

Riviera Beach Code is hereby amended as follows:

Sec. 14-85. Payment of member contributions; past continuous service.

Application may be made by any employee who has completed one or more years of continuous past service to purchase retirement credit for a part or all of the employee's continuous past service by paying into the pension fund an amount equal to the actual cost of the contributions that the employee would otherwise have paid for such continuous past service, plus interest. For purposes of determining credit for prior service as a police officer, in addition to service as a police officer in this state, credit may be given for federal, other state, or county service if the prior service is recognized by the Florida Department of Law Enforcement as provided under Chapter 633, or the police officer provides proof to the board of trustees that his or her service is equivalent to the service required to meet the definition of a police officer under subsection 185.02(5)(c), F.S. If such application is made within 12 months of being reemployed by the city the required interest rate shall be equal to the actual interest earned by the pension fund during that period of past service but shall not exceed seven and one-half percent (7.5%). If such application is made after said 12-month period the interest rate shall be equal to the actual interest, without any such cap, earned by the pension fund during that period of past service. Such amount shall be repaid to the pension fund either in a lump sum or by installment payments by way of payroll deduction, at the election of the employee. If the repayment is not made in a lump sum, the employee shall repay such amount by installment payments over a period not to exceed five years from the date the employee's application is submitted, with a fixed simple interest rate being calculated based on the pension fund's actuarially assumed investment return in effect

at the time the application is submitted. Any employee who desires to purchase retirement credit more than 60 days after final adoption of this section must repay at least one-third of the actual cost of the contributions in a lump sum. Continuous past service shall be credited to the employee each year on a prorata basis based on the amount repaid.

Section 6. That Section 14-86 of Article IV, Chapter 14 of the Riviera Beach Code is hereby amended as follows:

Sec. 14-86. Exemption from execution.

The pensions, annuities and any other benefits accrued or accruing to any person under the provisions of this article and the accumulated contributions and the cash securities in the funds created under this article are hereby exempted from any state, county or municipal tax of the state and shall not be subject to execution or attachment or to any legal process whatsoever, except that the recipient of any monthly benefit may authorize the board of trustees to withhold from the monthly benefit those funds necessary to pay for benefits being received through the city, the certified bargaining agent, alimony, child support or medical payments to a former spouse or minor child, and to pay for accident, health, and long-term care insurance premiums for the recipient, the recipient's spouse and the recipient's dependents. The Pension Fund shall not incur any liability for making or failing to make such withholdings. ~~and shall be unassignable.~~

Section 7. That Section 14-93 of Article IV, Chapter 14 of the Riviera Beach Code is hereby amended as follows:

In the event of the termination or partial termination of this plan, each affected participant's accrued pension benefit shall become nonforfeitable, i.e., 100 percent vested, ~~to the extent funded.~~ At such time, the fund shall be ~~appropriated and~~ distributed in accordance with F.S. Ch. 185.37.

Section 8. 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 9. If any word, phrase, clause, subsection, or sections 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. Specific authority is hereby granted to codify this ordinance.

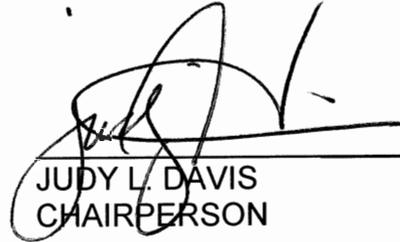
Section 11. That this ordinance shall be in full force and effective upon adoption.

PASSED AND APPROVED on first reading this 1st day of JUNE, 2011.

PASSED AND ADOPTED on second and final reading this 15th day of JUNE, 2011.

APPROVED:

THOMAS A. MASTERS
MAYOR



JUDY L. DAVIS
CHAIRPERSON

(MUNICIPAL SEAL)

BILLIE E. BROOKS
CHAIR PRO TEM

Absent

ATTEST:

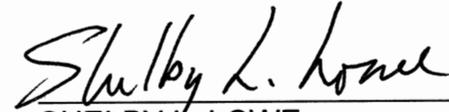


CARRIE E. WARD, MMC
CITY CLERK



CEDRICK A. THOMAS
COUNCIL MEMBER

DAWN S. PARDO
COUNCIL MEMBER



SHELBY L. LOWE
COUNCIL MEMBER

ORDINANCE NO. 3095
PAGE 11

1st READING

MOTIONED BY: D. Pardo

SECONDED BY: B. Brooks

J. DAVIS AYE

B. BROOKS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

2ND & FINAL READING

MOTIONED BY: D. Pardo

SECONDED BY: C. Thomas

J. DAVIS AYE

B. BROOKS Absent

C. THOMAS AYE

D. PARDO AYE

S. LOWE AYE

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA H. RYAN
CITY ATTORNEY

DATE: _____

ORDINANCE NO. 3095
PAGE 12

CERTIFICATION OF PUBLICATION

I hereby certify that notice of the proposed enactment of this Ordinance was duly published in a newspaper of general circulation within the City of Riviera Beach as required by the applicable Florida Statutes.

June 1, 2014
DATE

C. E. Ward
CARRIE E. WARD, MMC
CITY CLERK

ORDINANCE NO. 3096

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, ENACTING A ONE-YEAR MORATORIUM AS TO THE FILING, RECEIVING, AND/OR PROCESSING OF ANY APPLICATION FOR THE ESTABLISHMENT OF A SUBSTANCE ABUSE SERVICE FACILITY; PROVIDING FOR LEGISLATIVE FINDINGS, INTENT AND PURPOSE; PROVIDING FOR A DEFINITION OF SUBSTANCE ABUSE SERVICE FACILITY; PROVIDING FOR THE BOUNDARIES SUBJECT TO THE MORATORIUM; PROVIDING FOR SEVERABILITY AND CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 397, Florida Statutes, titled "Substance Abuse Services", provides general provisions and procedures for substance abuse service facilities; and

WHEREAS, The Florida Department of Children and Families provides oversight and licensing to these facilities; and

WHEREAS, substance abuse service facilities have recently gained popularity regionally and throughout the State of Florida; and

WHEREAS, recently, City staff members have been receiving an elevated number of inquiries pertaining to the establishment of substance abuse service facilities within the City of Riviera Beach; and

WHEREAS, the City's current land development regulations are silent in regards to requirements for the establishment of substance abuse service facilities; and

WHEREAS, City staff is requesting a one-year moratorium on substance abuse service facilities in order to analyze the effects of this use within the City and to evaluate if special standards for substance abuse service facilities should be incorporated into the City's land development regulations; and

WHEREAS, it is the intention of the City Council to direct staff to analyze the effects of substance abuse service facilities in the City, to analyze whether additional standards should be incorporated into the City's land development regulations and to evaluate the process for the issuance of development permits, business tax receipts, or other approvals regulating the location of substance abuse service facilities within the City which would further and promote the public health, safety, morals and general welfare of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, THAT:

SECTION 1. Legislative Findings, Intent and Purpose. The Whereas clauses are true and correct and incorporated herein and represent the legislative findings of the City Council. It is the purpose and intent of this Ordinance to promote the health and general welfare of the residents and businesses of the City through the analysis of any impacts from substance abuse service facilities and through consideration of criteria for the location of substance abuse service facility uses within the City.

SECTION 2. Definition. For purposes of this Ordinance a "Substance abuse service facility" is defined as an establishment or place of business which provides various intervention methods and treatment services for any number of individuals that misuse or abuse alcohol, illicit drugs, and/or prescription medications, which receives a payment, fee, or grant for any of the individuals receiving care, whether or not operating for profit".

SECTION 3. Boundaries. This Ordinance shall apply to all properties located within the boundaries of the City of Riviera Beach.

SECTION 4. Moratorium and Direction to Staff. The City Council hereby enacts a one-year moratorium prohibiting the filing, receiving and/or processing of any application for the opening, establishment, or development of a substance abuse service facility, in whole or in part, within the City. Staff is hereby directed to analyze the effects of substance abuse service facilities in the City, to analyze whether standards should be incorporated into the City's land development regulations, and to evaluate the process for the issuance of development permits, business tax receipts, or other approvals regulating the location of substance abuse service facilities within the City which would further and promote the public health, safety, morals and general welfare.

SECTION 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 6. Repeal of laws in conflict. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

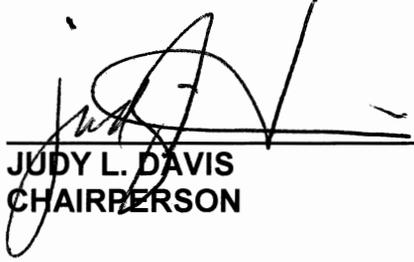
SECTION 7. Effective Date. This Ordinance shall take effect immediately upon its final approval and adoption.

PASSED AND APPROVED on the first reading this 15th day of JUNE,
2011.

PASSED AND ADOPTED on second and final reading this _____ day of _____,

APPROVED:

THOMAS A. MASTERS
MAYOR



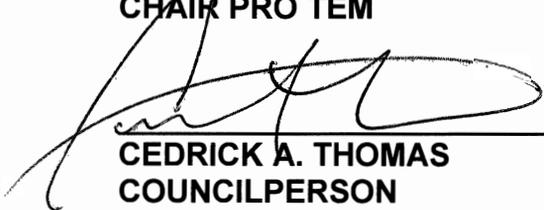
JUDY L. DAVIS
CHAIRPERSON

ATTEST:



CARRIE E. WARD
MASTER MUNICIPAL CLERK
CITY CLERK

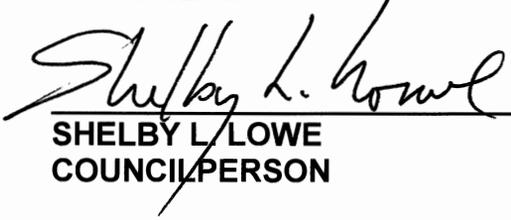
BILLIE E. BROOKS
CHAIR PRO TEM



CEDRICK A. THOMAS
COUNCILPERSON



DAWN S. PARDO
COUNCILPERSON



SHELBY L. LOWE
COUNCILPERSON

1ST READING

MOTIONED BY: D. Pardo

SECONDED BY: C. Thomas

B. BROOKS AYE

J. DAVIS NAY

C. THOMAS AYE

D. PARDO AYE

S. LOWE NAY

2ND & FINAL READING

MOTIONED BY: D. Pardo

SECONDED BY: C. Thomas

B. BROOKS AYE

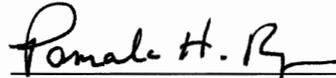
J. DAVIS AYE

C. THOMAS AYE

D. PARDO AYE

S. LOWE NAY

REVIEWED AS TO LEGAL SUFFICIENCY


PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 5/23/11