



**ADD-ON AGENDA
NORTH MIAMI CITY COUNCIL**

Regular Meeting

**Tuesday, April 14, 2015
7:00 P.M.**

ADDITION(s) TO APRIL 14, 2015 COUNCIL AGENDA:

Honorable Mayor and City Council Members, I respectfully request that the item(s) below be added UNDER:

9.B.2 ORDINANCES – FIRST READING

[TAB I]

PROPOSED ORDINANCE (*FIRST READING*) OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 15 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED, "PERSONNEL, PENSIONS AND RETIREMENT," ARTICLE IV "CLAIR T. SINGERMAN EMPLOYEES RETIREMENT SYSTEM," TO COMPLY WITH THE INTERNAL REVENUE CODE BY AMENDING SECTION 15-85.1 "MILITARY SERVICE CREDIT; CONTRIBUTIONS FOR MILITARY SERVICE"; SECTION 15-93 "DEATH BENEFITS"; SECTION 15-98 "DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

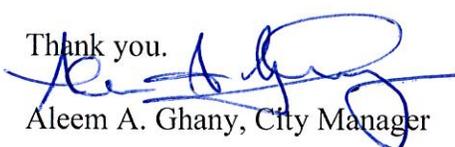
Sponsored by: Pension Board

[TAB J]

PROPOSED ORDINANCE (*FIRST READING*) OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 15 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "PERSONNEL, PENSIONS AND RETIREMENT," ARTICLE V "NORTH MIAMI POLICE PENSION PLAN," TO COMPLY WITH THE INTERNAL REVENUE CODE BY AMENDING SECTION 15-101 "DEFINITIONS"; SECTION 15-103 "MISCELLANEOUS PROVISIONS"; SECTION 15-132 "DEATH BENEFITS"; SECTION 15-137 "DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS"; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Sponsored by: Pension Board

Thank you.


Aleem A. Ghany, City Manager

c: Regine M. Monestime, Esq., City Attorney
Michael A. Etienne, Esq., City Clerk

TAB I

To: The Honorable Mayor and City Council

From: Miguel Codorniu, Pension Administrator

Date: 04/14/2015

RE: Favorable Determination Letter of Compliance with IRS Code

RECOMMENDATION

Staff recommends that the attached changes to the Pension Ordinances be ratified in order to remain compliant with applicable Internal Revenue Code.

BACKGROUND

The Internal Revenue Service requires all retirement plans to undergo a periodic review. Both of North Miami's Pension Plans were recently reviewed for compliance with applicable Internal Revenue Code. Part of this review required that minor changes to the pension ordinances be made in order to be fully compliant. The changes (redlined) have been incorporated into the existing ordinances and are attached for your review.

Attachments

1. Current Police Pension Ordinance
2. Revised Police Pension Ordinance
3. Current General Employee Pension Ordinance
4. Proposed General Employee Pension Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES, ENTITLED "PERSONNEL, PENSION, AND RETIREMENT" BY AMENDING ARTICLE IV, ENTITLED "CLAIR T. SINGERMAN EMPLOYEES RETIREMENT SYSTEM," TO COMPLY WITH THE INTERNAL REVENUE CODE BY AMENDING SECTION 15-85.1 "MILITARY SERVICE CREDIT; CONTRIBUTIONS FOR MILITARY SERVICE", SECTION 15-93 "DEATH BENEFITS", AND SECTION 15-98 "DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS"; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Clair T. Singerman Employees Retirement System (the "System") has received a determination letter from the Internal Revenue Service which requires amendments to the System to comply with the Internal Revenue Code (Exhibit "A"); and

WHEREAS, the City of North Miami has determined that amending the System to comply with the Internal Revenue Code is in the best interests of the employees and citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

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

Section 2. Amendment to City Code. Chapter 15 of the City of North Miami Code of Ordinances, entitled "Personnel, Pensions and Retirement" is hereby amended by amending sections 15.85.1, 15-93 and 15-98 to read as follows:

* * * * *

Chapter 15 – PERSONNEL, PENSIONS AND RETIREMENT

Article IV. Clair T. Singerman Employees Retirement System

* * * * *

Sec. 15-85.1. - Military service credit; contributions for military service.

Members shall have the option to purchase for up to four (4) years of active duty military service with the U.S. Armed Forces or her allies if each of the following requirements are also met:

- (1) Members must complete ten (10) years of creditable service in the city system before becoming eligible to claim such military credit. A member must make a written election of this option within four (4) years of eligibility on a form provided by the city, with such election accompanied by the documentation set forth in subsection (2) below, and an agreement that the member will pay the amount calculated pursuant to subsection (3) below at the time and in the form and manner set forth therein.
- (2) To receive retirement credit for active military service, a member must submit with such written election an original or certified copy of their certificate of service (Form DD214) showing the date of entry into active service and date of discharge under honorable conditions.
- (3) To receive retirement credit for active military service, a member who is an active employee of the city must pay out of his salary a weekly amount equal to one fifty-second (1/52) of four (4) percent of his annual city salary, based on the amount earned in their first year of creditable service with the city, for each year of military service credit claimed, along with interest at five (5) percent compounded annually, with the members required contribution hereunder to be picked-up by the city pursuant to I.R.S. Code Section 414(h)(2). In the case of a member who ceases to be an active city employee prior to the total payment of all amounts due and owing under this subsection (3), all amounts which remain payable under this subsection (3) at the time of the member's termination of employment shall immediately become due and payable in one (1) lump sum.
- (4) All military service credited under this section shall be treated, for purposes hereof, as credited city service. The benefit percentage per year of service as applicable for this military service is three (3) percent of final average compensation.
- (5) Military service credit shall become effective only after full payment as provided in subsection (3) above.

Notwithstanding any provision of this plan to the contrary, effective as of December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended, USERRA or F.S. chs. 175 and 185, as applicable.

For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined in Section 3401(h)(2) of the Internal Revenue Code, shall be treated as an employee of the employer making the payment, (ii) the differential wage payment shall be treated as compensation, and (iii) the plan shall not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Internal Revenue Code by reason of any contribution or benefit which is based on the differential wage payment.

* * * * *

Sec. 15.93. - Death benefits.

(a) Death before retirement.

(1) *Service connected.* Upon the death of a member where the cause of death is the direct result of an act or occurrence arising from employment there shall be paid to such deceased member's surviving spouse, till death or, as to general employees, remarriage, or for or on behalf of any child under age nineteen (19) years, a monthly benefit equal to fifty (50) percent of such deceased member's monthly compensation at the time of death, plus ten (10) percent of such member's monthly compensation to each child under age nineteen (19) years. Except as provided elsewhere in this section the total maximum death benefit shall be one hundred (100) percent of compensation, or fifty (50) percent if there is no surviving spouse. If survivors receive benefits from social security or workers' compensation the amount of compensation from this pension plan shall be reduced by an amount so that all funds collected from workers' compensations and social security and the pension plan shall not exceed one hundred (100) percent of the employee's salary at the time of death. Benefits payable from any veterans' benefits or pension under state or federal law will not require an offset from this pension plan. If the deceased member had previously selected an option, such option shall apply to the exclusion of other provisions herein. Death benefits paid to a surviving spouse of a sworn police officer or fire fighter shall not be effected by remarriage, provided the city continues to receive state excise tax monies as provided in F.S. §§ 185.08 and 175.101.

(2) *Nonservice-connected.*

- a. Upon the nonservice-connected death of a member not entitled to an early or normal retirement benefit there shall be paid to such deceased member's beneficiaries an amount equal to such member's prior vested benefit plus his accumulated contributions.
- b. Upon the nonservice-connected death of a member entitled to an early or normal retirement benefit, without such member having previously selected an option under which survivorship benefits are payable, it shall be assumed that such member had elected Option B2 (life and ten (10) years certain basis) and retired immediately preceding his death. If the deceased member had previously selected an option, such option shall apply to the exclusion of other provisions in this section.

(b) *Death after retirement.* Any benefit payable by reason of the death of a retiree shall be pursuant to the option selected prior to retirement. If no option has been selected, the death benefit payable shall be the difference between the retired member's prior vested benefit plus his accumulated contributions as of his retirement date and the total monthly retirement benefits paid prior to his date of death.

- (c) Death During Qualified Military Service. In the case of a death or disability occurring on or after January 1, 2007, if a participant dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan as if the participant had resumed and then terminated employment by the City on account of death.

* * * * *

Sec. 15-98. - Direct transfers of eligible rollover distributions.

- (a) *General.* This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the system to the contrary that would otherwise limit a distributee's election under subsection 15-94(1) or (2) and subsection 15-95(4), (6) or (7), a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (b) Definitions.
- (1) *Eligible rollover distribution:* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of 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 of ten (10) years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includable in gross income.
 - (2) *Eligible retirement plan:* An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Internal Revenue Code and an eligible plan under section 457(b) of the Internal Revenue 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.
 - (3) *Distributee:* A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse. Effective as of January 1, 2008, an employee's or former

employee's non-spouse beneficiary is a distributee with regard to the interest of the employee or former employee.

- (4) *Direct rollover*: A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee. Effective as of January 1, 2008, a non-spouse beneficiary may make a direct rollover only to an "inherited" individual retirement account as described in section 408(b) of the Internal Revenue Code. If a non-spouse Beneficiary receives a distribution from the plan, the distribution is not eligible for a 60-day (non-direct) rollover.

Section 3. **Severability.** Should this Ordinance or any part thereof be declared invalid by a Court of competent jurisdiction, the invalidity of any part of this Ordinance shall not otherwise affect the validity of the remaining provisions of this Ordinance, which shall be deemed to have been enacted without the invalid provision.

Section 5. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2015.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2015.

DR. SMITH JOSEPH
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Mayor Smith Joseph, D.O., Pharm.D
Vice Mayor Carol Keys, Esq.
Councilperson Scott Galvin
Councilperson Philippe Bien-Aime
Councilperson Marie Erlande Steril, MSW

_____	(Yes)	_____	(No)
_____	(Yes)	_____	(No)
_____	(Yes)	_____	(No)
_____	(Yes)	_____	(No)
_____	(Yes)	_____	(No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.



April 1, 2015

Mr. Miguel A. Codorniu
Pension Plan Administrator
City of North Miami
776 Northeast 125th Street, 3rd Floor Pension
North Miami, Florida 33161

Re: City of North Miami Clair T. Singerman Employees Retirement System

Dear Miguel:

As requested, we have reviewed the proposed ordinance for the City of North Miami Clair T. Singerman Employees Retirement System which incorporates the changes that are being required by the IRS pursuant to the Favorable Determination Letter. This proposed ordinance would amend the Plan as follows:

- Amending Section 15-85.1, Military Service Credit, to add language regarding the treatment of differential wage payments to comply with the Internal Revenue Code.
- Adding Section 15-93(c), Death Benefits, to reflect the changes under the Heroes Assistance and Relief Tax Act of 2008 (HEART).
- Amending Section 15-98(b), Direct Transfers of Eligible Rollover Distributions, to update the definition of Direct Rollover.

Under HEART, if a member dies or becomes disabled while in the military, the Plan would provide certain benefits. The value of these benefits would result in an actuarial loss in the year in which the death or disability occurred. Because of the very low probability that this provision will be utilized, we do not feel that an estimate for advanced funding is necessary.

In our opinion, these changes will not have a significant actuarial impact on the cost of the Pension Plan. Therefore, it is our opinion that a formal Actuarial Impact Statement is not required. However, we recommend that you send a copy of this letter and the ordinance to the Bureau of Local Retirement Systems.

The undersigned actuary is a member of the American Academy of Actuaries and meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein. The undersigned actuary is independent of the plan sponsor.

Mr. Miguel A. Codorniu
April 1, 2015
Page 2

We welcome your questions and comments.

Respectfully submitted, _____



Jeffrey Amrose, MAAA
Enrolled Actuary No. 14-6599

Circular 230 Notice: Pursuant to regulations issued by the IRS, to the extent this communication (or any attachment) concerns tax matters, it is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) marketing or recommending to another party any tax-related matter addressed within. Each taxpayer should seek advice based on the individual's circumstances from an independent tax advisor.

This communication shall not be construed to provide tax advice, legal advice or investment advice.

TAB J

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES, ENTITLED "PERSONNEL, PENSION, AND RETIREMENT" BY AMENDING ARTICLE V, ENTITLED "NORTH MIAMI POLICE PENSION PLAN," TO COMPLY WITH THE INTERNAL REVENUE CODE BY AMENDING SECTION 15-101 "DEFINITIONS"; SECTION 15-103 "MISCELLANEOUS PROVISIONS", SECTION 15-132 "DEATH BENEFITS", AND SECTION 15-137 "DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS"; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the North Miami Police Plan (the "Plan") has received a determination letter from the Internal Revenue Service which requires amendments to the Plan to comply with the Internal Revenue Code (Exhibit "A"); and

WHEREAS, the City of North Miami has determined that amending the Plan to comply with the Internal Revenue Code is in the best interests of the employees and citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

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

Section 2. Amendment to City Code. Chapter 15 of the City of North Miami Code of Ordinances, entitled "Personnel, Pensions and Retirement" is hereby amended by amending sections 15.101, 15-103, 15-132 and 15-137 to read as follows:

* * * * *

Chapter 15 – PERSONNEL, PENSIONS AND RETIREMENT

Article V. North Miami Police Pension Plan

* * * * *

Sec. 15-101. – Definitions.

* * * * *

Compensation means total compensation payable to an employee working the full normal working period for his position and shall include contributions made by the city on behalf of a member in satisfaction of the member's mandatory contributions to the system. Effective January 1, 1989, the compensation of an employee for purposes of this article shall not exceed two hundred thousand dollars (\$200,000.00) per year adjusted for cost of living increases in accordance with [section] 415(d) of the Code. Except as otherwise provided in the preceding sentence, for the plan years beginning on or after January 1, 1996, the annual compensation of each employee taken into account under the plan shall not exceed the annual compensation limit in section 401(a)(17) of the Code, as adjusted by the commissioner for increases in the cost-of-living in accordance with section 401(a)(17)(B) of the Code. For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined in Section 3401(h)(2) of the Internal Revenue Code, shall be treated as an employee of the employer making the payment, (ii) the differential wage payment shall be treated as compensation, and (iii) the plan shall not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Internal Revenue Code by reason of any contribution or benefit which is based on the differential wage payment.

* * * * *

Sec. 15.103. – Miscellaneous provisions.

* * * * *

(a) Amendments and termination.

- (1) This article establishing the system and fund and amending prior ordinances pertaining to retirement benefits for sworn police personnel, and subsequent ordinances pertaining to such system and fund, may be modified, terminated or amended, in whole or in part; provided that if this article or any subsequent ordinance shall be amended or repealed in its application to any person benefiting pursuant to this article, the amount of benefits which at the time of any such alteration, amendment or repeal shall have accrued to the member or beneficiary shall not be reduced thereby, except to the extent that the assets of the fund may be determined to be inadequate.
- (2) Recommendations for changes in this system may be made to the city council by the board of trustees after approval by a majority vote of the board of trustees.
- (3) If this article shall be repealed, the board shall continue to administer the system in accordance with the provisions of this article, for the sole benefit of the then members, any beneficiaries then receiving retirement allowances, and any future person entitled to receive benefits under one (1) of the options provided for in this article who are designated by any of such members. In the event of repeal, there shall be full vesting (one hundred (100) percent) of benefits accrued to the date of repeal and the assets of the system and shall be allocated in an equitable manner to provide benefits on a

proportionate basis to the persons so entitled to benefits in accordance with the provisions of this article, with prior preference being directed towards the return of prior vested benefits and accumulated contributions. The allocation of assets of the system in event of repeal of this article shall be carried out through the payment of the benefits provided under this article as they become due, or by the transfer of such assets to any retirement system replacing this system, provided that the full vesting of benefits under the system are provided and fully maintained under such new retirement system. Any funds remaining in the assets of this system after all the vested benefits provided under this article have been paid shall revert to the general fund of the city. Any allocation of assets made in accordance with the provisions under this article shall be final and binding on all persons entitled to benefits under the system.

(4) Limitation of benefits on early termination. If the system is terminated for any reason other than failure to obtain Internal Revenue Service approval then notwithstanding any provision of this article to the contrary, during the first ten (10) years after the effective date of this article, and if full current costs had not been made at the end of the first ten (10) years, until the full current costs are met, the benefits provided by the city's contributions for the members whose anticipated annual benefit at normal retirement date exceeds one thousand five hundred dollars (\$1,500.00) and who at the effective date of the system were among the twenty-five (25) highest paid employees of the city will be subject to the conditions set forth in the following provisions:

a. The benefit payable to a member described in this section or his beneficiary shall not exceed the greater of those benefits purchasable by the greater of twenty thousand dollars (\$20,000.00), or an amount equal to twenty (20) percent of the first fifty thousand dollars (\$50,000.00) of the member's annual compensation multiplied by the number of years from the effective date of this agreement to the earlier of:

1. The date of termination of the system;
2. The date the benefit of the member becomes payable; or
3. The date of a failure on the part of the city to meet the full current costs of the system;

or the present value of the maximum benefit provided in section 4022(b)(3)(B) of the act.

b. If the system is terminated or the full current costs thereof have not been met at any time within ten (10) years after effective date, the benefits which any of the members described in this section may receive from the city's contribution shall not exceed the benefits set forth in section (c)(4) of this section. If at the end of the first ten (10) years the full current costs are not met, the restrictions will continue to apply until the full current costs are funded for the first time. If a member described in this section leaves the employ of the city or withdraws from membership in the system when the full current costs have been met, the benefits which he may receive

from the city contributions shall not at any time within the first ten (10) years after the effective date exceed the benefits set forth above except as provided in the case of a lump sum distribution described below. These conditions shall not restrict the ~~full~~ full payment of any survivor's benefits on behalf of a member who dies while in the system and the full current costs have been met. These conditions shall not restrict the current payment of full retirement allowance called for by the system for any retired member while the system is in full effect and its full current costs have been met, provided an agreement, adequately secured, guarantees the repayment of any part of the distribution that is or may become restricted.

* * * * *

Sec. 15.132. - Death benefits.

(a) *Service-connected death.* Upon the service-connected death of a member there shall be paid to such deceased member's surviving spouse, if any, for life, an amount equal to fifty (50) percent of the final compensation paid to the member as determined from the average monthly wages paid to the deceased member during the twelve (12) months immediately preceding death. If there is no surviving spouse, this benefit shall be paid to the surviving minor children of the member during their minority or for a period of fifteen (15) years, whichever is greater. Absent a surviving spouse and surviving minor children, this benefit shall be paid to a beneficiary, designated by the member, for the beneficiary's life or a period of fifteen (15) years, whichever is less. This benefit shall be paid monthly commencing on the first day of the month following the death of the member. In addition to the foregoing benefit, there shall also be paid monthly to each surviving child of the deceased member under the age of eighteen (18) during that child's minority ten (10) percent of the final compensation paid to the deceased member. The total death benefit to be paid shall not, in any event, exceed one hundred (100) percent of the member's final compensation. A service-connected death is a death incurred while an employee is performing, directly or indirectly, services for the city. Death benefits paid to a surviving spouse shall not be effected by remarriage, provided the city continues to receive excise tax monies as provided in F.S. § 185.08. Notwithstanding the provisions described above in this subsection (a), in the event of the service-connected death of a member who is eligible for normal retirement, the benefit payable may not be less than the member's accrued pension benefit, and such benefit may not be payable for less than ten (10) years. An annual, compounded cost-of-living adjustment ("COLA") of three (3) percent shall be paid to any beneficiary receiving a service-connected death benefit pursuant to this subsection.

(b) *Non Service-connected death.* Upon the nonservice-connected death of a member, there shall be paid to the beneficiaries of that member a lump sum consisting of the member's accumulated contributions, which are attributable to the time period through September 30, 1982, plus the actuarially reduced equivalent of the normal retirement benefit

multiplied by the vesting percent attributable to the deceased member. Determination as to whether a death is nonservice-connected shall be made by the board of trustees after examination of findings and recommendations of the medical committee and from other evidence presented to the board.

- (c) Death During Qualified Military Service. In the case of a death or disability occurring on or after January 1, 2007, if a participant dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan as if the participant had resumed and then terminated employment by the City on account of death.

* * * * *

Sec. 15-137. - Direct transfers of eligible rollover distributions.

- (a) *General.* This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the system to the contrary that would otherwise limit a distributee's election under subsection 15-133(2) and subsection 15-134(2) or (5), a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
- (b) Retiree medical premiums for public safety officers. The plan may allow a public safety officer to elect a tax free distribution of up to \$3,000 annually directly to a retiree accident or medical plan or long-term care insurance contract on a pre-tax basis, so long as the public safety officer separates from service either at the plan's normal retirement age or due to his or her disability. Insurance premiums may be paid for the public safety officer, his spouse or his dependents while he is alive, but once he is deceased, the benefit ceases and may not be used by his spouse or beneficiaries to pay for their insurance premiums. Insurance premiums payments may only be made directly to the provider of the accident or health plan or qualified long-term care insurance contract. "Public safety officers" include law enforcement officers, firefighters, chaplains, rescue crew members or ambulance crew members.
- (~~b~~c) Definitions.

- (1) *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 of ten (10) years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includable in gross income.

- (2) *Eligible retirement plan:* An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Internal Revenue Code and an eligible plan under section 457(b) of the Internal Revenue 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.
- (3) *Distributee:* A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse. Effective as of January 1, 2008, an employee's or former employee's non-spouse beneficiary is distributee with regard to the interest of the employee or former employee.
- (4) *Direct rollover:* A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee. Effective as of January 1, 2008, a non-spouse beneficiary may make a direct rollover only to an "inherited" individual retirement account as described in section 408(b) of the Internal Revenue Code. If a non-spouse Beneficiary receives a distribution from the plan, the distribution is not eligible for a 60-day (non-direct) rollover.

Section 3. **Severability.** Should this Ordinance or any part thereof be declared invalid by a Court of competent jurisdiction, the invalidity of any part of this Ordinance shall not otherwise affect the validity of the remaining provisions of this Ordinance, which shall be deemed to have been enacted without the invalid provision.

Section 5. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this _____ day of _____, 2015.

PASSED AND ADOPTED by a _____ vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this _____ day of _____, 2015.

DR. SMITH JOSEPH
MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Mayor Smith Joseph, D.O., Pharm.D
Vice Mayor Carol Keys, Esq.
Councilperson Scott Galvin
Councilperson Philippe Bien-Aime
Councilperson Marie Erlande Steril, MSW

_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)
_____ (Yes) _____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.



April 1, 2015

Mr. Miguel A. Codorniu
Pension Plan Administrator
City of North Miami
776 Northeast 125th Street, 3rd Floor Pension
North Miami, Florida 33161

Re: North Miami Police Pension Plan

Dear Miguel:

As requested, we have reviewed the proposed ordinance for the North Miami Police Pension Plan which incorporates the changes that are being required by the IRS pursuant to the Favorable Determination Letter. This proposed ordinance would amend the Plan as follows:

- Amending Section 15-101, Definitions, to add language to the definition of Compensation to comply with the Internal Revenue Code.
- Amending Section 15-130, Maximum Annual Benefit, to update the reference to the applicable mortality table.
- Adding Section 15-132(c), Death Benefits, to reflect the changes under the Heroes Assistance and Relief Tax Act of 2008 (HEART).
- Adding Section 15-137(b), Direct Transfers of Eligible Rollover Distributions, to indicate that the Plan may allow a member who retires under normal or disability retirement to elect a pre-tax deduction of up to \$3,000 annually for direct payment of medical or long term care insurance premiums while the retiree is living.
- Amending Section 15-137(c), Direct Transfers of Eligible Rollover Distributions, to update the definition of Direct Rollover.

Under HEART, if a member dies or becomes disabled while in the military, the Plan would provide certain benefits. The value of these benefits would result in an actuarial loss in the year in which the death or disability occurred. Because of the very low probability that this provision will be utilized, we do not feel that an estimate for advanced funding is necessary.

In our opinion, these changes will not have a significant actuarial impact on the cost of the Pension Plan. Therefore, it is our opinion that a formal Actuarial Impact Statement is not required. However, we recommend that you send a copy of this letter and the ordinance to the Municipal Police Officers and Firefighters' Retirement Trust Funds Office and to the Bureau of Local Retirement Systems.

Mr. Miguel A. Codorniu
April 1, 2015
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The undersigned actuary is a member of the American Academy of Actuaries and meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein. The undersigned actuary is independent of the plan sponsor.

We welcome your questions and comments.

Respectfully submitted,



Jeffrey Amrose, MAAA
Enrolled Actuary No. 14-6599

Circular 230 Notice: Pursuant to regulations issued by the IRS, to the extent this communication (or any attachment) concerns tax matters, it is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) marketing or recommending to another party any tax-related matter addressed within. Each taxpayer should seek advice based on the individual's circumstances from an independent tax advisor.

This communication shall not be construed to provide tax advice, legal advice or investment advice.