

PROPOSED ORDINANCE NO. 2018-02

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF PEMBROKE PINES, FLORIDA, AMENDING THE CITY'S GENERAL EMPLOYEES' PENSION PLAN TO EXTEND A PARTICIPANT'S ABILITY TO PARTICIPATE IN THE DEFERRED RETIREMENT OPTION PLAN (DROP) BENEFIT FROM FIVE (5) YEARS TO EIGHT (8) YEARS; AMENDING CHAPTER 38 OF THE CITY'S CODE OF ORDINANCES, ENTITLED "RETIREMENT INCOME PLAN FOR GENERAL CITY EMPLOYEES," BY SPECIFICALLY AMENDING §§38.031; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City maintains the City of Pembroke Pines General Employees' Pension Plan (the "Plan"); and

WHEREAS, on ____ the City Commission ratified a Collective Bargaining Agreement ("CBA") with the Federation of Public Employees which expires _____; and

WHEREAS, in the CBA the parties agreed to modify the retirement benefits for General Employees who participate in the City's General Employees' Pension Plan to extend a participant's eligibility to participate in the plan's Deferred Retirement Option Plan (DROP) from five (5) years to eight (8) years if they entered the DROP on or after December 1, 2017; and

WHEREAS, those who entered into the DROP prior to December 1, 2017 will be afforded a one-time opportunity to elect to extend the duration of their DROP

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participation from five (5) years to eight (8) years so long as such election is made within thirty (30) days of the adoption of this plan amendment; and

WHEREAS, the City Commission has determined that amending the Plan to incorporate this amendment is in the best interests of the City and its general employees.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA THAT:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct, and are hereby incorporated herein and made a part hereof.

SECTION 2. The City Commission of the City of Pembroke Pines, Florida, hereby amends the Plan by specifically amending the City's Code of Ordinances, Chapter 38, entitled "Retirement Income Plan for General City Employees," §38.031, as follows:

Section 38.031 DEFERRED RETIREMENT OPTION PLAN.

(A) An active participant and any employee who is covered under a collective bargaining agreement whose accrued benefit is frozen as of June 30, 2010 shall become eligible for participation in the Deferred Retirement Option Plan (DROP) on the first day of the month on or after his normal retirement date.

(B) At the time of a participant's entry into the DROP, the participant's accrual service, accrued benefit and average

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compensation shall be calculated as if the participant had actually retired from service. No additional accrual service shall be earned after entry into the DROP. Any changes in Plan benefits shall not apply to participants in the DROP, unless otherwise applicable to retired participants of the Plan.

(C) The active participant shall select the retirement option from the list available in § 38.052, and shall designate any beneficiary. In the absence of a beneficiary designation, or should the designated beneficiary predecease the participant, the participant's estate shall be the contingent beneficiary.

(D) The maximum period of DROP participation shall be eight years (five years for a participant who entered the DROP prior to December 1, 2017).

(E) An election to participate in the DROP shall constitute an irrevocable election to resign from the service of the employer not later than 96 months (60 months for a participant who entered the DROP prior to December 1, 2017) after commencement of DROP participation. Consistent with the provisions of the Older Workers' Benefits Protection Act, 29 U.S.C 626(f), as amended from time to time, all participants in the DROP shall be given 45 days in which to consider the terms of the DROP agreement and, after election to participate in the DROP, shall have seven calendar days following the execution of such agreement to revoke said agreement to receive the full eight years (five years for a participant who entered the DROP prior to December 1, 2017) of participation.

(F) Election to participate in the DROP must be exercised within the first eight years (five years for a participant who entered the DROP prior to December 1, 2017) of eligibility for the DROP for a maximum number of years as specified below. Election to participate must be made in writing in a time and manner determined by the employer.

(G) The duration and participation in the DROP shall be specified and shall not exceed eight years (five years for a participant

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who entered the DROP prior to December 1, 2017 from the first day of eligibility for normal retirement date, as chosen by the participant.

(H) Upon entry into the DROP, an amount equal to the participant's monthly retirement benefit shall be transferred to an account designated by the participant for investment. Participants may direct their DROP money to any of the investment options approved by the Employer for the DROP. Participants ^[JK1] shall self-direct the value of their DROP account in investment options selected by the employer for the DROP. The only permissible investment options shall be "regulated investment companies" as defined in Code Section § 851 or similar entities (e.g., mutual funds, etc.) set forth on Appendix "A" (which is incorporated into the terms of the Plan by this reference), The value of each participant's DROP account at any particular time shall equal the sum of the value(s) of his selected investment options (which shall be valued on a daily basis). If the employer desires to alter the available investment options or the manner of investing participant DROP accounts or the methodology for allocating investment experience to participant DROP accounts, such changes shall be set forth on Appendix "A" in a manner that satisfies the definitely determinable benefit requirements contained in Code Section 401(a)(25) and section 1.401-1(b)(1)(i) of the regulations.

(I) There shall be no guaranteed rate of investment return on DROP deposits. Upon the direct transfer of the DROP money to the account designated by the participant, neither the employer nor the retirement fund shall have any obligation to the participant concerning investment gains or losses. Transfers between accounts shall be in accordance with the rules of the Deferred Compensation Program.

(J) The decision to participate in the DROP is irrevocable.

(K) Upon entry into the DROP, a participant shall no longer be eligible for death or disability benefits under the Plan. In the event of a disability or death, the participant shall be presumed to have retired on a normal retirement on the day before his disability or

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death. Distribution from the DROP account shall be made to the participant, or in the case of his death, to his designated beneficiary.

(L) No participant may receive a distribution from the DROP until actual separation from service with the employer. Distribution may be in a lump sum, periodic payments, an annuity, or a combination thereof. A participant may also elect to rollover the DROP account to another qualified retirement plan, including an individual retirement account. Distribution must commence not later than provided in Code Section 401(a)(9). It is the intent of the employer that this Plan at all times be a qualified plan as determined by Code Section 401(a).

(M) During DROP participation, a participant shall be considered a retiree with deferred receipt of benefits for all Plan purposes. For all other purposes, the participant shall be considered an active employee of the employer entitled to all rights of employment.

(N) The employer shall be empowered to promulgate uniform rules for the administration of the DROP, provided the rules are not inconsistent with the provisions of the Plan.

(O) Notwithstanding anything in this section to the contrary, a Participant who entered the DROP prior to December 1, 2017 shall be provided a one-time option to elect, in writing, to change the duration of his participation in the DROP from five years to eight years. Such election must occur within 30 days of the adoption of this amendment.

SECTION 3. All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

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SECTION 4. If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the validity of the remaining portions or applications remaining in full force and effect.

SECTION 5. Upon satisfaction of each of the three following requirements set forth below, the terms and provisions of this Ordinance shall become effective upon second reading and take effect retroactively to December 1, 2017:

- (a) the City Commission has received and has accepted a report establishing the actuarial soundness of these amendments or a letter of opinion from the Plan Actuary that the amendment has no actuarial impact; and
- (b) the Ordinance and impact statement have been sent to the State of Florida Division of Retirement; and
- (c) the Federation of Public Employees, or their successor organizations, in writing accept the changes proposed in this ordinance.

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INTENTIONALLY BEEN LEFT BLANK.**

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PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, ON THE FIRST READING, THIS ____ DAY OF _____, 2017.

PASSED ADOPTED BY THE CITY COMMISSION OF THE CITY OF PEMBROKE PINES, FLORIDA, ON THE SECOND AND FINAL READING, THIS ____ DAY OF _____, 2017.

CITY OF PEMBROKE PINES, FLORIDA

By: _____

ATTEST:

MAYOR FRANK C. ORTIS

MARLENE GRAHAM, CITY CLERK ORTIS _____

APPROVED AS TO FORM: CASTILLO _____

MONROIG _____

SCHWARTZ _____

OFFICE OF THE CITY ATTORNEY SIPLE _____

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