

ORDINANCE NO. C-20-35

AN ORDINANCE OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING THE CITY OF FORT LAUDERDALE GENERAL EMPLOYEES' RETIREMENT PLAN, TO IMPLEMENT THE COLLECTIVE BARGAINING AGREEMENTS BETWEEN THE CITY AND THE FEDERATION OF PUBLIC EMPLOYEES AND TEAMSTERS LOCAL UNION 769; AMENDING SECTIONS 20-106 AND 20-108.1 OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA, TO GIVE PLAN MEMBERS THE OPTION TO CONTINUE PARTICIPATING IN THE GENERAL EMPLOYEES' RETIREMENT PLAN OR JOIN THE FLORIDA RETIREMENT SYSTEM AND PROVIDE A PROCEDURE FOR MEMBER ELECTIONS, RESPECTIVELY; AND PROVIDING FOR SEVERABILITY, REPEAL OF CONFLICTING ORDINANCE PROVISIONS, AND AN EFFECTIVE DATE.

WHEREAS, the City of Fort Lauderdale entered into collective bargaining agreements with the Federation of Public Employees, a Division of the National Federation of Public and Private Employees, AFL-CIO (hereinafter "FPE") and Teamsters Local Union 769 (hereinafter "Teamsters") for the period October 1, 2019, through September 30, 2022; and

WHEREAS, the FPE and Teamsters collective bargaining agreements provide for certain changes to the General Employees Retirement System (hereinafter "Plan"), most notably a provision that gives Plan members the option to participate in the Florida Retirement System; and

WHEREAS, to implement the retirement changes in the FPE and Teamsters collective bargaining agreements, an ordinance amending the Plan is necessary;

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

SECTION 1. That Section 20-106 of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to read as follows:

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Sec. 20-106. - Plan established; purpose; effective date.

(4a) The "City of Fort Lauderdale General Employees' Retirement Plan" (the "Plan"), comprising a retirement plan for city employees other than police officers and firefighters, originally effective January 3, 1973, is hereby amended and restated. The plan consists of a defined benefit plan and a deferred retirement option plan, both of which are intended to qualify under Code Section 401(a). The plan is a governmental plan under Code Section 414(d). The plan is maintained for the exclusive benefit of eligible city employees and their beneficiaries. The benefits under the plan shall be in addition to amounts received as federal social security benefits, except where social security benefits are specifically applied as offsets in the case of disability benefits hereunder; the benefits under this plan shall also be in addition to benefits received by any member from any other private or public retirement system. Except as otherwise specifically provided, the amended and restated plan shall be effective October 1, 2013. Notwithstanding the foregoing, the following effective dates shall apply:

- (a1) Section 20-116(k) is amended effective January 1, 2009 to provide for direct rollovers by non-spouse beneficiaries.
- (b2) The definition of 415 compensation in section 20-115(j) is modified to include differential pay effective for "limitation years" beginning after December 31, 2008.
- (c3) Section 20-107 is amended effective for employees who die after December 31, 2006 while engaged in qualified military service to provide that they shall be treated as having returned to employment immediately prior to death for certain plan purposes.

(b) Notwithstanding any other provision of the Plan:

- (1) The City of Fort Lauderdale will join the Florida Retirement System (FRS) for city employees other than police officers and firefighters on January 1, 2021, or as soon thereafter as administratively feasible.

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Employees who are Members of this Plan on the date the City joins FRS shall have an opportunity to individually elect to continue participating in this Plan or enroll in FRS for future service, as provided in section 20-108.1(f).

- (2) All city employees other than police officers and firefighters hired on or after the date the City joins FRS shall participate in FRS.

SECTION 2. That Section 20-108.1 of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to read as follows:

Sec. 20-108.1. - Optional Participation; City Sponsored Defined Contribution Plan; Florida Retirement System.

- (a) Eligible Employees may elect to participate in a City Sponsored Defined Contribution Plan in lieu of participation in this defined benefit Plan. Participation in either this Defined Benefit Plan or the City Sponsored Defined Contribution Plan is mandatory for all eligible Employees, except that participation in either this defined benefit Plan or the City Sponsored Defined Contribution Plan for Employees in the nonclassified Service and for Employees of Affiliated Agencies is optional. An eligible Employee may not participate in both this Plan and the City Sponsored Defined Contribution Plan for the same time period.
- (b) The Director of Finance shall promulgate forms for a notice of election ("Notice of Election for New Employees") which form shall be made available to all newly hired Employees. Upon hiring, an Employee electing to participate in the City Sponsored Defined Contribution Plan in lieu of this Defined Benefit Plan shall file the Notice of Election for New Employees with the Director of Finance prior to the end of his first pay period after his first day of employment.
- (c) The election to participate in the City Sponsored Defined Contribution Plan in lieu of this Defined Benefit Plan shall be made by one who became a Member prior to July 15, 2003 by filing with the Board and with the Director of Finance a notice of election to participate in the City Sponsored

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Defined Contribution Plan ("Notice of Election") which Notice of Election shall be promulgated by the Director of Finance after consultation with the Plan's Administrator.

- (d) The Notice of Election forms shall provide for the following:
- (1) The Notice of Election form shall provide for termination of Membership in this defined benefit Plan effective the date specified in the Notice of Election and election of participation in the City Sponsored Defined Contribution Plan.
 - (2) The effective date of termination of Membership in this defined benefit Plan shall coincide with the last day of a pay period ending no sooner than thirty (30) days after the filing of the Notice of Election.
 - (3) The effective date of commencement of participation in the City's Defined Contribution Plan shall coincide with the first day of the pay period next following the effective date of termination of Membership in this defined benefit Plan.
 - (4) The Notice of Election form shall contain a notice to the Member that upon termination of Membership in this Plan, the Member shall be entitled to refund of Member contributions, with interest, in accordance with Section 20-112 (a)(7) and shall further provide notice with regard to rollover distribution options pursuant to section ~~20-115~~ 20-116(k) hereof.
- (e) As to Employees for whom participation in this Plan or the City's Defined Contribution Plan is mandatory, election to participate in the City's Defined Contribution Plan shall be in accordance with the following:
- (1) As to Employees hired on or after July 15, 2003 for whom participation in this Plan is mandatory, such Employees upon meeting all the eligibility requirements for Membership in this Plan shall initially become Members of and participate in this Plan unless

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they have elected in accordance with subsection (b) above to participate in the City Sponsored Defined Contribution Plan by filing a Notice of Election for New Employees to participate in the City Defined Contribution Plan.

- (2) In the event an Employee for whom participation in this Plan is mandatory desires to participate in the City Sponsored Defined Contribution Plan in lieu of this defined benefit Plan, then such Employee who has not filed a Notice of Election for New Employees in accordance with subsection (b) above may, at any time prior to

(i) Commencement of a DROP Retirement, or

(ii) Termination of employment with the City, whichever (i) or (ii) should first occur, file a Notice of Election in the manner set forth above.

- (f) Notwithstanding any other provision of this Plan:

- (1) All Employees who are Members of this Plan on the date the City joins the Florida Retirement System ("FRS") for city employees other than police officers and firefighters shall have an opportunity to individually elect to continue participating in this Plan or enroll in FRS for future service. The election shall be irrevocable. Members who elect to continue participating in this Plan will continue to contribute to and accrue benefits under this Plan for as long as they are employed by the City in a position covered by this Plan. Members who elect to join FRS shall contribute to and accrue benefits under FRS in accordance with the statutes and rules governing FRS, for as long as they are employed by the City in a position covered by FRS. Members who elect to join FRS who are not vested in this Plan, if any, shall receive a refund of their Member Contributions from this Plan. Members who elect to join FRS who are vested in this Plan shall be eligible to receive their accrued benefit from this Plan upon attaining eligibility for retirement under this Plan, and separation from City employment, based on their Credited Service and Average

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Monthly Earnings on the day before the City joins FRS. The City shall provide individual election forms to all Employees who are Members of this Plan. Members shall complete the individual election forms and submit the forms to the Director of Finance ~~prior to~~ on or before December 31, 2020.

- (2) All city employees other than police officers and firefighters hired on or after the date the City joins FRS shall participate in FRS.

SECTION 3. That Subsection 20-116(k)(1) of the Code of Ordinances of the City of Fort Lauderdale, Florida, is amended to read as follows:

- (1) For the purposes of this subsection 20-1156(k) the following words and phrases shall have the meanings indicated:
- a. *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:
1. 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 (10) years or more;
 2. Any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and
 3. 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); and
 4. Any other distribution(s) that is reasonably expected to total less than two hundred dollars (\$200.00) during a year.

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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:

- (i) A traditional individual retirement account or annuity described in § 408(a) or (b) of the Code (a traditional IRA) or a Roth individual retirement account or annuity described in § 408A (a Roth IRA); or
 - (ii) To a qualified defined contribution, defined benefit, or annuity plan described in § 401(a) or § 403(a) or to an annuity contract described in § 403(b), if such plan or contract provides for separate accounting for amounts so transferred (including interest thereon), 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.
- b. *Eligible Retirement Plan* is an eligible Plan under § 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, 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.

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- c. *Distributee* includes an employee or former employee. In addition, the employee's or former employee's surviving spouse are distributees with regard to the interest of the spouse. For distributions occurring in Plan years beginning after December 31, 2009 (or in any earlier Plan year beginning after December 31, 2006), a distributee also includes the participant's non-spouse designated beneficiary. In the case of a non-spouse beneficiary, the direct rollover may be made only to a traditional IRA or Roth IRA that is established on behalf of the designated beneficiary and that will be treated as an inherited IRA pursuant to the provisions of § 402(c)(11). Also, in this case, the determination of any required minimum distribution under § 401(a)(9) that is ineligible for rollover shall be made in accordance with Notice 2007-7, Q&A 17 and 18, 2007-5 I.R.B. 395.
- d. *Direct rollover* is a payment by the Plan to the eligible Retirement Plan specified by the distributee.

SECTION 4. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 5. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 6. That this Ordinance shall be in full force and effect upon final passage.

PASSED FIRST READING this 6th day of October, 2020.

PASSED SECOND READING this _____ day of _____, 2020.

Mayor
DEAN J. TRANTALIS

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ATTEST:

City Clerk
JEFFREY A. MODARELLI

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