ORDINANCE NO. 2013-50

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA SUBMITTING TO THE ELECTORATE AT A SPECIAL ELECTION CONDUCTED DURING THE PRIMARY ELECTION OF THE CITY OF HIALEAH OCCURRING IN THE CITY OF HIALEAH, FLORIDA ON TUESDAY, NOVEMBER 5, 2013, WHEREIN THE ELECTORS OF THE CITY OF HIALEAH, FLORIDA SHALL BE PRIVILEGED TO VOTE ON THE FOLLOWING QUESTION:

"SHALL THE CITY AMEND THE HIALEAH CHARTER TO REQUIRE HIALEAH VOTERS TO APPROVE ANY FUTURE CHANGES TO THE PENSION PLAN FOR ELECTED OFFICALS, WHICH WILL BE CLOSED TO NEW ELECTED OFFICIALS BEGINNING ON JANUARY 1, 2014?"

REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CHARTER; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council and the Mayor present for referendum proposed changes to the Hialeah Charter, upon public comment at the public meeting before the City Council and at a public meeting to receive public comment conducted in the Council Chambers at Hialeah City Hall; and

WHEREAS, the City of Hialeah has closed or terminated the Elected Officers' Retirement Trust for new entrants and reentrants as of January 1, 2014; and

WHEREAS, this Charter amendment will give the voters the right to decide whether to offer a pension plan for elected officials in the future.

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

Section 1: The Charter of the City of Hialeah, Florida, particularly, Article II. Mayor and the City Council, is hereby amended to read, if approved by voter referendum, as follows:

CHARTER

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ARTICLE VII. MISCELLANEOUS

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Section 7.03. Pension plan; deferred compensation.

Contributions to pension and other deferred compensation plans or arrangements for city employees or elected officials may be made under such terms and conditions as the city council, by ordinance, may establish from time to time according to sound actuarial principles. The city shall maintain a pension plan available to employees in classified service and part time employees. The city attorney and assistant city attorneys may elect to receive deferred compensation or pension benefits upon employment, or upon the effective date of this charter, for the city attorney and assistant city attorneys employed at that time, subject to terms and conditions adopted by the city council. The existing pension plans, the Firemen's Relief and Pension Fund for sworn police employees, shall continue and remain independent of the general pension plan. Eligible employees shall contribute as provided in the pension plan. The terms and conditions of the pension plan shall be established by the city council shall be established by the city code. Any change to the elected officers' retirement trust after January 1, 2014 shall be first submitted to voters for approval by referendum.

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Section 2: The Mayor and the City Council of the City of Hialeah, Florida hereby submit the following question to the electorate at a special election conducted during the primary election of the City of Hialeah occurring in the City of Hialeah, Florida on Tuesday, November 5, 2013, to which the electors of the City of Hialeah, Florida may vote "Yes" or "No":

Title: Charter Amendment: Revising Pension Article to require voter approval of future changes to elected officials pension.

"SHALL THE CITY AMEND THE PENSION PROVISIONS OF THE HIALEAH CHARTER TO REQUIRE HIALEAH VOTERS TO APPROVE ANY FUTURE CHANGES TO THE PENSION PLAN FOR ELECTED OFFICALS, WHICH WILL BE CLOSED TO NEW ELECTED OFFICIALS BEGINNING ON JANUARY 1, 2014? "

Section 3: Conduct of Election.

The Miami-Dade County Supervisor of Elections is requested and authorized to conduct this charter amendment question in accordance with the general election laws of the State of Florida and the Charter and Code of the City of Hialeah, Florida. The City will pay all expenses associated with these elections unless some of the expenses are shared with other governmental entities. The Miami-Dade County Supervisor of Elections shall appoint an Election Board to assist the Elections Department in conducting the elections. The Elections Department is authorized to conduct the pre-count Logic and Accuracy Test for the optical scan system on Election . The City of Hialeah will make the final tabulation and certification of results.

Section 4. Form of Ballot.

The ballot form to be used shall be as provided by the Miami-Dade County Supervisor of Elections.

Section 5. Opening and Validating Absentee Ballots.

The criteria and requirements for opening and validating of absentee ballots and canvassing of ballots shall be same as followed by the Miami-Dade County Supervisor of Elections. All absentee ballots shall comply with the minimum requirements of state law.

Section 6. Canvassing Board.

The City Council members shall serve as the Canvassing Board for this election. The members in attendance will be the Canvassing Board for the Logic and Accuracy Test and the

canvass of ballots on Election Day. If no member of the Canvassing Board attends the Logic and Accuracy tests and/or the canvassing of ballots on Election Day, the Acting City Clerk shall serve as the Canvassing Board designee for the City Council. The City of Hialeah hereby designates the Miami-Dade County Supervisor of Elections to conduct the Pre-count Logic & Accuracy Test of the Optical Scan System used for paper ballots; begin the processing and opening of absentee ballots and duplicate ballots as needed.

Section 7. **Certification of Results.**

The Canvassing Board will make the official certification of the results of the charter amendment question at 12:00 noon on Wednesday, November 6, 2013 at a special meeting the day following the election, except for provisional ballots, if any, which will be certified on or about 12:00 noon on Monday, November 11, 2013.

Section 8: **Registration of Voters.**

The Miami-Dade County Supervisor of Elections will register voters for the City of Hialeah Municipal Primary Election until 5:00 p.m., on Monday, October 7, 2013. All persons eligible to vote at these elections must be registered before the times stipulated above or have registered previously, as provided by law.

Section 9: **Polling Places, Hours of Voting.**

Polling places for these elections will be as designated by the Miami-Dade County Supervisor of Elections and will be open from 7:00 a.m. to 7:00 p.m. on Election Day. Early voting shall be at the same times, dates and locations of early voting as established by the Miami-Dade County Supervisor of Elections pursuant to state law.

Section 10: **Notice.**

Notice of these elections shall be according to state law.

Section 11. Inclusion in Charter

The Charter Amendments provided in this ordinance shall be included and incorporated in the Charter of the City of Hialeah, Florida if the question presented is answered in the affirmative by a referendum of the electors of the City of Hialeah, Florida and the results of the election are certified.

Section 12: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 13: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed $500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 14: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 15: **Effective Date.**

This Ordinance shall become effective when passed by the City Council and when signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 27 day of Nov, 2013.

Isis Garcia-Martinez
Council President

Approved on this 28 day of Nov, 2013.

ATTEST: CARMEN HERNANDEZ
Acting Deputy City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez and Lozano voting "Yes".