ORDINANCE NO. 2014-29

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 70 ENTITLED "RETIREMENT AND PENSION", ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM, DIVISION 1. GENERALLY OF THE CODE OF ORDINANCES AND IN PARTICULAR, REVISING HIALEAH CODE § 70-96 ENTITLED "DEFINITIONS"; AMENDING DIVISION 4, MEMBERSHIP AND IN PARTICULAR REVISING § 70-203 ENTITLED "RETIREMENT PLANS", REVISING § 70-204 ENTITLED "TERMINATION OF MEMBERSHIP; EFFECT OF REEMPLOYMENT", AND CREATING A NEW § 70-210 ENTITLED "MEMBER CONTRIBUTIONS TO RETIREMENT PLAN"; AMENDING DIVISION 5, BENEFITS, AND IN PARTICULAR REVISING § 70-238 ENTITLED "SERVICE RETIREMENT ALLOWANCE", § 70-239 ENTITLED "VESTING", § 70-240 ENTITLED "OPTIONAL CONTINUANCE OF GROUP INSURANCE COVERAGE BY RETIRANTS", § 70-242 ENTITLED "PERIODIC INCREASES TO PENSIONS" AND § 70-249 ENTITLED "DISABILITY BENEFITS"; AMENDING DIVISION 7, DEFERRED RETIREMENT OPTION PROGRAM (DROP), AND IN PARTICULAR § 70-260 ENTITLED "ELIGIBILITY"; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR PENALTIES; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Hialeah recently entered into collective bargaining agreements with Hialeah Civil Service Employees Association-AFSCME Local 161, Dade County Police Benevolent Association and Hialeah Association of Fire Fighters, IAFF Local 1102; and

WHEREAS, the collective bargaining agreements contain changes to the City of Hialeah Employees General Retirement System; and

WHEREAS, to implement the retirement system changes, an ordinance amending Chapter 70 is necessary; and

WHEREAS, this Amendment will not negatively impact the City of Hialeah pension plan financially; and

WHEREAS, the proposed Amendment was reported to the Board of Trustees of the Employees General Retirement System at a meeting on April 15, 2014.

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

Section 1: Chapter 70 entitled "Retirement and Pensions", Article IV. Employees General Retirement System, Division 1, Generally, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 70-96 entitled "Definitions" to read as follows:

Chapter 70

RETIREMENT AND PENSIONS

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ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM

DIVISION 1. GENERALLY

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Sec. 70-96. Definitions.

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Member contribution rate means pension contributions paid by the member as designated in section 70-210 and the amounts paid by the member to the annuity savings fund as designated in section 70-203.

Section 2: Chapter 70 entitled "Retirement and Pensions", Article IV. Employees General Retirement System, Division 4, Membership, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 70-203 entitled "Retirement Plans" and § 70-204 entitled "Termination of membership; effect of reemployment" and creating a new § 70-210 entitled "Pension contributions", to read as follows:

Chapter 70

RETIREMENT AND PENSIONS

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ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM

DIVISION 4. MEMBERSHIP

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Sec. 70-203. Retirement plans.

(a) ~~All~~ Except as otherwise provided in Sec. 70-210, members of the retirement system shall contribute seven percent of the member's compensation to the annuity savings fund.

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Sec. 70-204. Termination of membership; effect of reemployment.

(a) Except as otherwise provided in this article, if a member separates from the services of the city, except to become a retirant or for death, the member shall forfeit the member's credited service at the time of separation; and the member shall thereupon cease to be member. However, if such person is reemployed by the city within a period of four years from and after the date of the member's last separation from service, the credited service forfeited by the member at the time of the member's last separation from service shall be restored to the member's credit. Notwithstanding the preceding sentence, effective on the effective date of this Ordinance, if a member who is not a police officer member or firefighter member is reemployed by the city within a period of ten years from and after the date of the member's last separation from service, the credited service forfeited by the member at the time of the member's last separation from service shall be restored to the member's credit upon such

conditions as the board of trustees may require, such as restoration of the member's annuity account with interest, if the member withdrew his/her annuity account at the time of separation. This section shall apply in all cases of separation from the employment of the city except as provided in section 70-205

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Sec. 70-210. Member Contributions to Retirement Plan

(a) All members who are not police officer members or firefighter members shall make contributions to the Retirement Plan as follows:

(1) Effective May 15, 2014 through September 30, 2014, members shall contribute five percent of compensation to the Retirement Plan. Effective October 1, 2014 and thereafter, members shall contribute four percent of compensation to the Retirement Plan. If the Retirement Plan funding level as reported in the actuarial valuation, exceeds 80%, effective the month next following the actuarial valuation in which the funding level was reported, members shall contribute three percent of compensation to the Retirement Plan. If the Retirement Plan funding level as reported in the actuarial valuation, exceeds 100%, effective the month next following the actuarial valuation in which the funding level was reported, no member contribution shall be required.

(2) Notwithstanding paragraph (1) above, members who are eligible for full retirement benefits as of May 14, 2014 (i.e., members who have 20 years of civil service and 70 points when age plus years of civil service are combined) shall not be required to contribute to the Retirement Plan.

(3) Members shall be provided a contribution election form each year in which to elect one of the following contribution options:

a. Members may deduct the applicable Retirement Plan contribution from the member's annuity contribution and receive the remainder as compensation.

b. Members may deduct the applicable Retirement Plan contribution from the member's annuity contribution and contribute the remainder to the member's annuity account.

c. Members may make both the annuity contribution and the applicable Retirement Plan contribution.

d. Members may deduct a portion of the applicable Retirement Plan contribution from the member's annuity contribution and a portion of the applicable Retirement Plan contribution from the member's compensation.

(b) Firefighter members shall make pension contributions as follows:

(1) Effective October 1, 2013 through September 30, 2014, firefighter members hired prior to November 15, 2013 shall contribute five percent of compensation to the Retirement Plan. Effective October 1, 2014 and thereafter, firefighter members shall contribute

four percent of compensation to the Retirement Plan. If the Retirement Plan funding level as reported in the actuarial valuation, exceeds 80%, effective the month next following the actuarial valuation in which the funding level was reported, firefighter members shall contribute three percent of compensation to the Retirement Plan. If the Retirement Plan funding level as reported in the actuarial valuation, exceeds 100%, effective the month next following the actuarial valuation in which the funding level was reported, no member contribution shall be required.

(2) Notwithstanding paragraph (1) above, firefighter members who are eligible for full retirement benefits as of November 15, 2013 (i.e., members who have 20 years of credited service and 70 points when age plus years of credited service are combined) shall not be required to contribute to the Retirement Plan.

(3) Firefighter members hired on or after November 15, 2013 shall contribute four percent of compensation to the Retirement Plan. If the Retirement Plan funding level as reported in the actuarial valuation, exceeds 80%, effective the month next following the actuarial valuation in which the funding level was reported, firefighter members shall contribute three percent of compensation to the Retirement Plan. If the Retirement Plan funding level as reported in the actuarial valuation, exceeds 100%, effective the month next following the actuarial valuation in which the funding level was reported, no member contribution shall be required.

(c) Police officer members shall make pension contributions as follows:

(1) Effective March 2, 2014 through September 30, 2014, police officer members hired before that date shall contribute five percent of compensation to the Retirement Plan. Effective October 1, 2014 and thereafter, police officer members hired before March 2, 2014 shall contribute four percent of compensation to the Retirement Plan. Police officer members hired on or after March 2, 2014 shall contribute four percent of compensation to the Retirement Plan. If the Retirement Plan funding level as reported in the actuarial valuation, exceeds 80%, effective the month next following the actuarial valuation in which the funding level was reported, police officer members shall contribute three percent of compensation to the Retirement Plan. If the Retirement Plan funding level as reported in the actuarial valuation, exceeds 100%, effective the month next following the actuarial valuation in which the funding level was reported, no member contribution shall be required.

(2) Compensation used for determining member contributions shall include the same components of compensation that are used to determine retirement benefits.

(4) Police officer member contributions may be made in lieu of or in addition to annuity fund contributions as provided in Sec. 70-203.

(d) Member contributions shall be "picked-up" by the city in accordance with Section 414(h) of the Internal Revenue Code. As a result, the member contributions shall be treated as employer contributions for U.S. income tax purposes, and no portion of the picked-up contribution may be included in the member's compensation.

Section 3: Chapter 70 entitled "Retirement and Pensions", Article IV. Employees General Retirement System, Division 5, Benefits, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 70-238 entitled "Service retirement allowance", § 70-239 entitled "vesting", § 70-240 entitled "Optional continuance of group insurance coverage by retirants", § 70-242 entitled "Periodic increases to pensions" and § 70-249 entitled "Disability benefits" to read as follows:

Chapter 70

RETIREMENT AND PENSIONS

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ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM

DIVISION 5. BENEFITS

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Sec. 70-238. Service retirement allowance.

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(c) *October 5, 1992 and forward.* From October 5, 1992 and forward, except as otherwise provided herein, the member shall receive the following:

(1) *Annuity.* An annuity which shall be the actuarial equivalent of the member's accumulated contributions standing to the member's credit in the annuity savings fund at the time of retirement;

(2) *Basic pension.* A basic pension of $1,800.00 annually; and

(3) *Service pensions.* A service pension equal to three percent of the average final compensation for each year of membership service and/or prior membership service credited to the member's service account, not to exceed a total of 25 years, provided the member has at least 20 years of credited service, and his or her age and credited service when added together equals at least 70 points, and the retiree continues to contribute seven percent into the annuity savings fund while employed by the city.

(d) *Vesting.* ~~Members~~ Except as otherwise provided herein and in section 70-239, members electing the option under section 70-239 with at least ten years' credited service and who have not met the requirements for normal retirement under section 70-203 shall be entitled to a basic pension of $2,800.00 annually and a service pension of two percent of average final compensation for each year of credited service.

(e) *Police officer members hired on or after March 2, 2014.* Police officer members hired on or after March 2, 2014 shall receive the following:

(1) *Annuity.* An annuity which shall be the actuarial equivalent of the member's accumulated contributions standing to the member's credit in the annuity savings fund at the time of retirement,

(2) *Basic pension.* none; and

(3) *Service pension.* A service pension equal to three percent of the average final compensation for each year of membership service and/or prior membership service credited to the member's service account, not to exceed a total of 25 years; provided the member has at least 20 years of credited service, and his or her age and credited service when added together equals at least 76 points.

(e) *Firefighter members hired on or after November 15, 2013.* Firefighter members hired on or after November 15, 2013 shall receive the following:

(1) *Annuity.* An annuity which shall be the actuarial equivalent of the member's accumulated contributions standing to the member's credit in the annuity savings fund at the time of retirement,

(2) *Basic pension.* none; and

(3) *Service pension.* A service pension equal to three percent of the average final compensation for each year of membership service and/or prior membership service credited to the member's service account, not to exceed a total of 25 years, provided the member has at least 20 years of credited service, and his or her age and credited service when added together equals at least 76 points., and the retiree continues to contribute seven percent into the annuity savings fund while employed by the city.

(f) *Additional retirement benefit, eligibility.* Notwithstanding any other provision of the Retirement Plan, effective for members who are employed on the effective date of this Ordinance and are not participating in the DROP, and for members hired on or after the effective date of this ordinance, such member who retires with more than 25 years of credited service is eligible for an additional retirement benefit equal to one and one-half of average final compensation for each year of credited service that exceeds 25 years, up to a maximum of three years or a total of four and one-half percent.

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Sec. 70-239. Vesting.

(a) Upon reaching age 55, any member or former member in good standing, with at least ten years of credited service, who separated from the city prior to becoming eligible for retirement, shall be eligible for the following benefits, upon proper application to the board of trustees, as defined in section 70-236:

(1) For ten years of credited service, such member shall be entitled to the member's annuity plus 70 percent of the basic pension and the credited service pension as outlined in section 70-238

(2) Three percent shall be added to the 70 percent for each full year of credited service over ten years up to 20 years.

(b) Notwithstanding subsection (a) above, police officer members hired on or after March 2, 2014 and firefighter members hired on or after November 15, 2013, who separate from the city with at least ten years of credited service but prior to becoming eligible for normal retirement (less than 20 years of credited service or 76 points), shall, upon proper application to the board of trustees, be eligible for a benefit equal to 2% of average final compensation for each year of credited service, payable upon reaching age 59 and ½. No basic pension shall be provided to such members.

Sec. 70-240. Optional continuance of group insurance coverage by retirants.

(a) At the time of retirement, a member may elect to continue coverage for any life or medical group insurance that may be in force for the member at the time of retirement.

(b) ~~The~~ Except as otherwise provided herein, the full cost of the premium for coverage of the retiree only, as an individual, shall be paid by the city, except that a member hired after October 10, 2006 shall pay the active rate for individual health insurance coverage, calculated at the rate on the date of retirement, for each year of retirement until the retiree reaches age 65. At age 65, upon being eligible for and enrolling in Medicare Part A and Part B, the city shall pay the full cost of the health insurance premium for the retiree, for the retiree's individual coverage only. Upon retirement, all retirees who receive normal retirement benefits and who were hired prior to October 11, 2006, the city shall continue to pay the full cost of the health insurance premium for the retiree, for the retiree's individual coverage only. Notwithstanding the foregoing, members other than police officer members and firefighter members who separate from city employment before attaining eligibility for normal retirement on or after March 25, 2014 shall pay the full cost of any premium for coverage of the retiree and the retiree's dependents.

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Sec. 70-242. Periodic increases to pensions.

After a member has been retired for a period of one year, and every year thereafter, except as otherwise provided herein, the monthly pension shall be increased by two percent of the original basic pension and membership service pension, provided the retired member is at least 52 years of age. The increase shall be payable on the first day of the month following the first the member's anniversary of retirement or the first day of the month following the member's 52nd birthday, whichever is later, and is limited to a total increase of 20 percent of the original basic pension and membership service pension. Present retirants who qualify for this additional benefit shall receive the initial increase on the first day of the month following the effective date of the ordinance from which this section derives, with subsequent increases at annual intervals from such date. This section does not apply to beneficiaries or the members who have applied for a deferred pension as outlined in section 70-239. The benefit increase provided by this section 70-242 for police officer members hired on or after March 2, 2014 and firefighter members hired on or after November 15, 2013 shall be one percent per year commencing at age 52, payable for ten years.

Sec. 70-249. Disability benefits.

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(c) The insurance benefits provided to a disabled member pursuant to this subsection shall only accrue to eligible employees injured in circumstances not connected with line of duty of injuries and circumstances that are nonjob-related with a minimum of ten years of continuous service. The city shall pay 100 percent of the cost of the insurance premium of an eligible disabled member for single coverage. The eligible disabled member shall pay the cost of the insurance premium for double or family coverage; provided, however, the eligible disabled members, as described below, shall receive a credit towards payment of the premium based on the following criteria:

Total monthly income from city	Credit amount
From zero (0) to and Including $2000.00	75%
Greater than $2,000.00 to and including $3,250.00	50%
Greater than $3,250.00 to and including $4,500.00	25%

All rates are subject to periodic adjustments. Notwithstanding the foregoing, members other than police officer members and firefighter members who are injured in circumstances not connected with line of duty of injuries and circumstances that are nonjob-related with a

minimum of ten years of continuous service, shall pay the full premium cost of health insurance for single, double or family coverage.

Section 4: Chapter 70 entitled "Retirement and Pensions", Article IV. Employees General Retirement System, Division 7, Deferred Retirement Option Program, of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by revising Hialeah Code § 70-360 entitled "Eligibility", to read as follows:

Chapter 70

RETIREMENT AND PENSIONS

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ARTICLE IV. EMPLOYEES GENERAL RETIREMENT SYSTEM

DIVISION 7. DEFERRED RETIREMENT OPTION PROGRAM (DROP)

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Sec. 70-260. Eligibility.

A member of the city's retirement system, except as provided in section 70-261, who is employed by the city may enter into the deferred retirement option program (DROP), on the first day of any month following completion of 25 years of membership service credit, provided that the sum of the member's age and years of service is 70 points or more; or for police officer members hired on or after March 2, 2014 and firefighter members hired on or after November 15, 2013, the sum of the member's age and years of service is 76 points or more. The member must have actually worked for at least 25 years of civil service and the member shall not be allowed to buy time in order to be eligible for the DROP. The maximum duration for participation in the DROP shall not exceed 36 months, and participation will end if the employee resigns, dies, or is terminated for good cause prior to completion of the 36 months. Participation in the DROP shall not violate section 70-237(2)b. of the Hialeah Code. Effective on the effective date of this Ordinance, firefighter members must be in full duty status to elect to participate in the DROP, and DROP participation will end if such a member is placed on permanent light duty status. Effective on the effective date of this Ordinance, police officer members must be in full duty status or temporary or permanent light duty status based on a job-related injury to elect to participate in the DROP, and DROP participation will end if such a member is placed on permanent light duty status for a nonjob-related injury..

Section 5: **Repeal of Ordinances in Conflict.**

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

Section 6: **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 7: **Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered, as appropriate, to conform to the uniform numbering system of the Code.

Section 8: **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 the remaining phrases, clauses, sentences, paragraphs or section of this ordinance.

Section 9: **Effective Date.**

This ordinance shall become effective when passed by the City Council and 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 May, 2014.

Isis Garcia-Martinez
Council President

Attest:

Approved on this 30 day of May, 2014.

Marbelys Fatjo, City Clerk

Mayor Carlos Hernandez

Approved as to form and legal sufficiency:

for William M. Grodnick, City Attorney, Esq.

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

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

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THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.