

RESOLUTION NUMBER 2006-13

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WINTER SPRINGS, FLORIDA, AMENDING THE DEFINED BENEFIT PLAN AND TRUST FOR EMPLOYEES OF THE CITY OF WINTER SPRINGS; AMENDING ARTICLE V, SECTIONS 6.02, 8.03, 9.01, 10.01, 10.02, AND 10.03, TO PROVIDE FOR A VOLUNTARY ELECTION OF DISTRIBUTIONS WHERE THE PRESENT VALUE DOES NOT EXCEED \$3,500; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City's retirement program for employees contains several provisions that provide for the automatic payment of distributions where the present value does not exceed \$3,500; and

WHEREAS, the U.S. Treasury Department has adopted regulations concerning mandatory distributions in excess of \$1,000; and

WHEREAS, certain amendments to the City's retirement program are needed to comply with the U.S. Treasury Department has adopted regulations;

NOW, THEREFORE, BE IT RESOLVED by the City Commission of Winter Springs as follows:

Section 1. Article V, Section 6.02, of the Defined Benefit Plan and Trust for Employees of the City of Winter Springs is hereby amended to read as follows:

6.02 Payment of Early Retirement Pension.

(A) If the present value of the Participant's early retirement pension does not exceed \$1,000, the Trustee will automatically pay the early retirement pension in lump sum, as soon as administratively practicable after the Participant's Separation from Service or, if later, after the Participant satisfies the eligibility requirements for an early retirement pension. If the present value of the Participant's early retirement pension is greater than \$1,000 but does not exceed \$3,500, the Trustee, upon receipt of the Participant's written election to receive a lump sum distribution, will pay the early retirement pension in lump sum, as soon as administratively practicable after the Participant's Separation from Service or, if later, after the Participant satisfies the eligibility requirements for an early retirement pension.

(B) If the present value of the Participant's early retirement pension exceeds \$3,500, the Trustee will pay the early retirement pension in the form and as of the date elected by the Participant. A participant may elect to commence his early retirement pension as of the first day of any month during the period he is eligible for the early retirement pension and after he has separated from Service. If the Participant fails to designate a distribution date, then the Trustee will commence payment of the early retirement pension in accordance with Article X.

Section 2. Article V, Section 8.03, of the Defined Benefit Plan and Trust for Employees of the City of Winter Springs is hereby amended to read as follows:

8.03 Payment of Deferred Vested Pension.

(A) If the present value of the Participant's deferred vested pension does not exceed \$1,000, the Trustee will automatically pay the deferred vested pension in lump sum, as soon as administratively practicable following the Participant's Separation from Service. If the present value of the Participant's deferred vested pension is greater than \$1,000 but does not exceed \$3,500, the Trustee, upon receipt of the Participant's written election to receive a lump sum distribution, will pay the deferred vested pension in lump sum, as soon as administratively practicable after the Participant's Separation from Service. In no event may the distribution occur later than the 60th day following the close of the Plan Year in which the Participant attains Normal Retirement Age.

(B) If the present value of the Participant's deferred vested pension exceeds \$3,500, the Trustee will pay the deferred vested pension in the form elected by the Participant. A Participant may elect to commence his deferred vested pension after the Participant's Normal Retirement Date. If the Participant fails to elect a distribution date, then the Trustee will commence payment of the deferred vested pension in accordance with Article X.

Section 3. Article V, Section 10.01, of the Defined Benefit Plan and Trust for Employees of the City of Winter Springs is hereby amended to read as follows:

10.01 Form of Benefit. Subject to the requirements of Section 10.02, the Retirement Committee will direct the Trustee to pay a Participant his Nonforfeitable Accrued Benefit in a form permitted under Section 10.05. Annuity payments will continue until the last scheduled payment coincident with or immediately preceding the date of the Participant's death or, if applicable, the date of his survivor's death.

(A) Consent. A Participant must consent, in writing, to any distribution described in this Article X if the present value of the Participant's Nonforfeitable Accrued Benefit exceeds \$1,000, and the distribution commences prior to the Participant's attaining Normal Retirement Age. Furthermore, the Participant's spouse also must consent, in writing, to any distribution for which Section 10.02 requires the spouse's consent. For purposes of the consent requirements under this Article X, if the present value of the Participant's Nonforfeitable Accrued Benefit, at the time of any distribution, exceeds \$1,000, the Retirement Committee will treat that present value as exceeding \$1,000 for purposes of all subsequent Plan distributions to the Participant.

Section 4. Article V, Section 10.02, of the Defined Benefit Plan and Trust for Employees of the City of Winter Springs is hereby amended to read as follows:

10.02 Qualified Joint and Survivor Annuity.

(A) Payment of Annuity Form. The Retirement Committee must direct the Trustee to distribute a married or unmarried Participant's Nonforfeitable Accrued Benefit in the form of a qualified joint and survivor annuity, unless the Participant makes a valid waiver election (described in Section 10.04) prior to the annuity starting date. If, as of the annuity starting date, the Participant is married, a qualified joint and survivor annuity is an immediate annuity payable for the life of the Participant and a survivor annuity payable for the remaining life of the Participant's surviving spouse which is 50% of the amount of the annuity payable during the life of the Participant. If, as of the annuity starting date, the Participant is not married, a qualified joint and survivor annuity is an immediate life annuity for the Participant. The qualified joint and survivor annuity will be the Actuarial Equivalent of the Participant's Nonforfeitable Accrued Benefit and will provide monthly payments. The Participant may elect to have annuity payments less frequently than monthly, but not less frequently than annually.

(B) Present Value Not Greater Than \$3,500. If the present value of the Participant's Accrued Benefit is not greater than \$1,000, the Trustee will automatically pay the Participant's pension in a lump sum, in lieu of a qualified joint and survivor annuity. If the present value of the Participant's Accrued Benefit is greater than \$1,000 but does not exceed \$3,500, the Trustee, upon receipt of the Participant's written election to receive a lump sum distribution, will pay the Participant's pension in lump sum, in lieu of a qualified joint and survivor annuity. The distribution must occur on or before the annuity starting date. The consent requirements of this Article X do not apply to a Participant subject to this paragraph.

Section 5. Article V, Section 10.03, of the Defined Benefit Plan and Trust for Employees of the City of Winter Springs is hereby amended to read as follows:

10.03 Commencement of Benefits. The Retirement Committee must direct the Trustee to commence distribution of benefits in accordance with this Section 10.03, subject to the mandatory distribution requirements of Section 10.06.

(A) Distribution to Participant Who Separates from Service Before Normal Retirement Date. The Retirement Committee will direct the Trustee to commence distribution of the Participant's Nonforfeitable Accrued Benefit in accordance with Article VI, VII or VIII, whichever applies.

(B) Distribution to Participant Who Separates from Service After Normal Retirement Date. The Retirement Committee will direct the Trustee to commence distribution to the Participant:

(1) Present Value of Normal Retirement Pension Not Exceeding \$1,000. In lump sum, as soon as administratively practicable following the Participant's separation from Service, but not later than the 60th day following the close of the Plan Year in which that separation from Service occurs.

(2) Present Value of Normal Retirement Pension Greater than \$1,000 but Not in Excess of \$3,500. In lump sum, as soon as administratively practicable following the receipt of the Participant's election to receive a lump sum distribution and separation from Service.

(3) Present Value of Normal Retirement Pension Exceeds \$3,500. In the form and at the time elected by the Participant, as permitted under this Article X. The Participant may elect to commence distribution as soon as administratively practicable following separation from Service or as of the first day of any subsequent month.

(C) Failure of Participant To Make an Election. Where the Participant has the right to elect the form and timing of his pension, but has failed to make an election, the Retirement Committee will direct the Trustee to commence distribution of the Participant's pension, in the form prescribed by Section 10.02, as soon as administratively practicable following the later of: (1) the Participant's attainment of Normal Retirement Age; or (2) the Participant's separation from Service. If, pursuant to the Plan, the latest distribution date available to the Participant occurs earlier than the mandatory distribution date described in this Section 10.03(C), the Retirement Committee will satisfy this distribution requirement by purchasing, as soon as administratively practicable after the latest applicable distribution date, a deferred Nontransferable Annuity which will commence the Participant's pension at the mandatory distribution date.

(D) Notice to Participant. At least 30 days before the Participant's annuity starting date, the Retirement Committee must provide a benefit notice to a Participant who is eligible to make a distribution election under the Plan. The benefit notice must explain the optional forms of benefit in the Plan, including the material features and relative values of those options, and the Participant's right to defer distribution until he attains Normal Retirement Age.

(E) Death of the Participant. If the Participant had commenced distribution prior to his death, the Retirement Committee will direct the Trustee to make distribution to the Participant's Beneficiary in accordance with the distribution method in effect at the time of death. If the deceased Participant had not commenced distribution, the Retirement Committee will direct the Trustee to distribute the Participant's death benefit in accordance with paragraph (1) or paragraph (2), whichever applies, subject to the requirements of Article IX.

(1) Present Value of Death Benefit Does Not Exceed \$1,000. In lump sum, as soon as administratively practicable following the date on which the Retirement Committee receives notification of or otherwise confirms the Participant's death.

(2) Present Value of Death Benefit is Greater than \$1,000 But Does Not Exceed \$3,500. In lump sum, as soon as administratively practicable following the date on which the Retirement Committee receives notification of or otherwise confirms the Participant's death., and receives the Beneficiary's written election to receive a lump sum distribution.

(3) Present Value of Death Benefit Exceeds \$3,500. In the form and at the time elected by the Participant or, if applicable by the Beneficiary, as permitted under this Article X. Unless otherwise elected by the Participant and to the extent permitted under Section 10.06, a Beneficiary may elect to commence distribution of the Participant's death benefit as of the first day of any month following the date the Retirement Committee receives notification of or otherwise confirms the Participant's death. In addition to the other forms of distribution available under this Article X, and to the extent permitted under Section 10.06, a Beneficiary may elect to receive the Participant's death benefit in monthly, quarterly or annual installments over a 5 year period, unless the Participant elected otherwise. In the absence of an election, the Retirement Committee will direct the Trustee to distribute the Participant's death benefit in five annual installment payments commencing as soon as administratively practicable following the end of the Plan Year that the Retirement Committee receives notification of or otherwise confirms the Participant's death.

Section 6.

That this resolution shall supersede any and all conflicting provisions of any previously adopted resolutions.

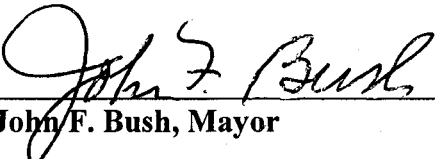
Section 7.

That should any section or provision of this resolution or any portion thereof, any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 8.

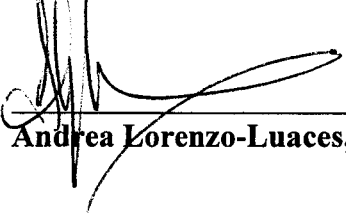
That this resolution shall take effect upon adoption.

PASSED and ADOPTED this 27th day of February, 2006.



John F. Bush, Mayor

ATTEST:



Andrea Lorenzo-Luaces, City Clerk