ORDINANCE NO. 3065

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 14 ENTITLED "PENSIONS AND RETIREMENT PROGRAMS," ARTICLE II ENTITLED "GENERAL EMPLOYEES" BY REVISING SECTION 14-26 ENTITLED "OPTIONAL FORMS OF RETIREMENT BENEFITS" OF THE CODE OF ORDINANCES OF THE CITY OF RIVIERA BEACH RELATING TO THE RETIREMENT SYSTEM FOR GENERAL EMPLOYEES BY PROVIDING FOR A DEFERRED RETIREMENT OPTION PROGRAM (DROP); PROVIDING FOR CONFLICTS, SEVERABILITY, AND CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** the Administration Board of the General Employees' Retirement System has recommended and approved amendments to the existing Code to provide improved benefits for participants of the plan; and

**WHEREAS,** the Retirement System's actuary has prepared a Statement of Actuarial Impact, which the City Council has received and considered; and

**WHEREAS,** the City Council deems it to be in the public interest to provide a Deferred Retirement Option Program to the retirement system for its employees in the General Employees' Retirement System.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1.** That Article II entitled "General Employees" of Chapter 14 entitled "Pensions and Retirement Programs" of the City of Riviera Beach Code of Ordinances is hereby amended by adding new language to Section 14-26, entitled "Optional forms of retirement income" as follows:

**Sec. 14-26. Optional forms of retirement income.**

* * *

Option 4. Deferred Retirement Option Program (DROP). In general, and subject to the provisions of this section, the Board of Trustees of the General Employees' Retirement System is authorized to establish and maintain a Deferred Retirement Option Program, hereinafter referred to as DROP. The DROP is a program under which an eligible member of the Retirement System may elect to participate by deferring receipt of retirement benefits while continuing employment with the city. Upon entry into DROP a member's accrued vacation and sick leave balances not used in calculation of normal retirement benefits shall be carried forward and the DROP participant shall accrue additional

vacation and sick leave during participation in DROP. However any accrued vacation or sick leave balance at termination of the DROP period shall be forfeited. Upon termination of employment, the participant shall begin to receive the previously determined normal retirement benefits. Participation in the DROP does not guarantee employment for the specified period of DROP.

(1) Eligibility of member to participate in the DROP.

All Retirement System members are eligible to elect participation in the DROP on or after attaining their normal retirement date or age provided that election to participate is made within five (5) years after the member reaches his or her earliest eligibility for normal retirement based on years of service, or age and years of service, except as provided for in subparagraphs (2)(A) or (2)(B) below. The member shall advise the city and the Retirement System in writing at least thirty (30) days in advance of the date on which the DROP shall begin.

(2) Participation in the DROP.

(A) An eligible member may elect to participate in the DROP for a period not to exceed a maximum of sixty (60) consecutive months nor beyond a total of thirty (30) years of credited service with the city. Any member who has exceeded the sixty (60) month or thirty (30) year limitations shall not be eligible to continue participation in the DROP.

(B) Not withstanding the thirty (30) year limitation above, any member who has more than twenty-five (25) years of credited service on the effective date of the DROP shall be allowed to participate in the DROP for the maximum sixty (60) consecutive months, provided that such member elects to participate in the DROP no later than ninety (90) days after the effective date of this ordinance.

(C) Upon deciding to participate in the DROP, the member shall submit on forms required by the Retirement System:

(I) A written election to participate in the DROP.

(ii) Selection of the DROP participation and termination dates, which satisfy the limitations stated in paragraph (1) and subparagraph (2)(A) or (2)(B). Such termination date shall be in an irrevocable and binding letter of resignation with the city, establishing a deferred termination date. The member may terminate before the termination date within the limitations of subparagraph (2)(A), but only with not less than thirty (30) days advance written notice to the city from the new termination date.

(iii) A properly completed DROP application for service retirement as provided in this section.

(iv) A written election of form of pension payment, pursuant to Section 14-28 of this Article.

(v) Any other information required by the Retirement System's Board of Trustees.

(D) The DROP participant shall be retired under the Retirement System for all purposes except that payment of benefits shall be deferred until separation from city employment.

(E) A re-employed DROP participant with renewed membership shall not be eligible for DROP participation.

(3) Benefits payable under the DROP.

The DROP account shall, unless a member elects a self-directed DROP, earn interest at a rate set quarterly by the Board of Trustees. Such interest shall be equal to the system's net rate of investment return for the year and shall be credited to each individual account balance on a quarterly basis. Members selecting a self-directed DROP shall select from one or more providers selected by the Board of Trustees and shall be subject to all fees provided in such self-directed DROP. Self-directed investments shall be invested as permitted in the self-directed DROP agreement.

(A) Effective with the date of DROP participation, the member's initial normal monthly benefit, including the

value of accrued unused leave (per city policy as amended from time to time), credited service, and final average compensation, shall be fixed. The value of accrued unused leave, whether or not payment for such is actually received by the participant, shall be included in the calculations to determine said normal monthly benefit, with appropriate contributions being made on entry into DROP. However, actual payment for such accrued unused leave shall be made in no more than five (5) equal installments, paid no less frequently than annually on the anniversary of the member's entry into DROP, provided however, that the first installment shall be at least sufficient to cover the cost of the employee's contribution to the employee's pension, after all other deductions have been made. The City will, however, make a one time payment at the entry into DROP to employees who have no more than twelve (12) days leave remaining. Interest on any unpaid portion of such accrued leave payment shall be calculated annually at simple interest at the rate earned by the City's largest investment fund (excluding pension investment funds). Termination from DROP prior to the maximum DROP period shall result in a lump sum payment of any remaining balance of said accrued leave installments with interest calculated for each completed calendar quarter.

Such retirement benefit shall accrue monthly to the participant's individual DROP account. The Board of Trustees shall administer these individual DROP accounts. DROP accounts shall accrue interest at a rate set quarterly by the Board of Trustees. These DROP accounts shall be subject to administrative fees or charges as established by the Board of Trustees.

(B) The effective date of retirement of a DROP participant shall be the first day of the month selected by the member to begin participation in the DROP. No person may enter DROP prior to attending a city sponsored employee education program. Such program shall be in addition to any education program sponsored by the Retirement System.

(C) Normal retirement benefits shall continue to accrue in the DROP until the established termination date of the DROP

or until the participant terminates employment or dies prior to such date. A separate accounting of each participant's accrued benefits under the DROP shall be calculated and be available to participants annually.

(D) At the conclusion of the participant's DROP, the Retirement System shall direct that the participant's total accumulated DROP benefits be distributed, subject to the following provisions:

(i) The Retirement System shall receive verification from the city that the participant has terminated employment.

(ii) The terminated DROP participant or if deceased, such participant's named beneficiary, shall elect on forms provided by the Retirement System to receive payment of the DROP benefits in accordance with one of the options listed below. For a participant or beneficiary who fails to elect a method of payment within sixty (60) days of termination of the DROP, the Retirement System shall direct that a lump sum be distributed as provided in subsection (a) below.

(a) Lump sum: All accrued DROP benefits, plus interest, less withholding taxes remitted to the Internal Revenue Service, shall be paid to the DROP participant or surviving beneficiary.

(b) Direct rollover: All accrued DROP benefits, plus interest, shall be paid from the DROP directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described

in Section 402(c)(9) of the Internal Revenue Code.

(c) Partial lump sum: A portion of the accrued DROP benefits shall be paid to the DROP participant or surviving spouse, less withholding taxes remitted to the Internal Revenue Service, and the remaining DROP benefits shall be transferred directly to the custodian of an eligible retirement plan as defined in Section 402(c)(8)(B) of the Internal Revenue Code. However, in the case of an eligible rollover distribution to the surviving spouse of a deceased participant, an eligible retirement plan is an individual retirement account or an individual retirement annuity as described in Section 402(c)(9) of the Internal Revenue Code. The proportions shall be specified by the DROP participant or surviving beneficiary.

(iii) The form of payment selected by the DROP participant or surviving beneficiary shall comply with the minimum distribution requirements of the Internal Revenue Code and payments shall begin no later than the date on which the participant reaches age 70 years and 6 months. Regardless of the form of payout, a participant's DROP account continues until the account balance is exhausted.

(iv) For a DROP participant who fails to terminate city employment at the expiration of the 60-month maximum DROP participation period or the thirty (30) year credited service maximum unless authorized to do so pursuant to subparagraphs (2)(A) and (2)(B): the member shall be deemed not to be retired, the DROP election shall be null and void, and the member shall have no accumulated DROP benefits. Retirement System membership shall be reestablished retroactively to the date of the commencement of the DROP, and the member shall be required to pay to the Retirement System

the member contributions as if the participant had continued service to the city, and the city contributions during the period the member participated in the DROP, plus an interest rate equal to the annual assumed investment return during each year the member participated in the DROP.

(E) The accrued benefits of any DROP participant, and any contributions accumulated under such program, shall not be subject to assignment, execution, attachment, or to any legal process whatsoever, except for income deduction orders as provided in s. 61.1301, Florida Statutes and federal income tax levies.

(F) DROP participants shall not be eligible for disability retirement benefits as provided in Sections 14-24(c) of this Article, and the participant's spouse and children shall not be eligible for the survivor benefits as provided in Sections 14-24(d) of this Article.

(4) Death benefits under the DROP.

(A) Upon the death of a DROP participant, the named beneficiary shall be entitled to apply for and receive the accrued benefits in the DROP as provided in this Section.

(B) The normal retirement benefit accrued to the DROP during the month of a participant's death shall be the final monthly benefit credited for such DROP participant.

(C) Eligibility to participate in the DROP terminates upon death of the participant. If the participant dies on or after the effective date of enrollment in the DROP, but prior to the first monthly benefit being credited to the DROP, Retirement System benefits shall be paid as though the DROP election had not been made.

(5) Contributions.

Neither City nor Member contributions shall not be made, due, or payable during a participant's DROP participation, notwithstanding any other section of this Article.

(6) Forfeiture of retirement benefits.

Nothing in this section shall be construed to remove DROP participants from the scope of Section 8(d). Art. II of the State Constitution, and Section 112.3173, Florida Statutes. DROP participants who commit a specified felony offense while employed will be subject to forfeiture of all retirement benefits, including DROP benefits, pursuant to those provisions of law.

(7) Administration of program.

The Board of Trustees shall make such rules as are necessary for the effective and efficient administration of this subsection and individual DROP accounts. The Retirement System shall not be required to advise members of the federal tax consequences of an election related to the DROP but may advise members to seek independent advice.

**SECTION 2.** That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**SECTION 3.** If any word, phrase, clause, subsection, or sections of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

**SECTION 4.** Specific authority is hereby granted to codify this ordinance.

**SECTION 5.** That this ordinance shall be in full force and effect immediately upon its final passage and adoption.

**PASSED AND APPROVED** on the first reading this 15 day of July 2009.

**PASSED AND ADOPTED** on second and final reading this 5 day of August, 2009.

APPROVED:

THOMAS A. MASTERS, MAYOR

(MUNICIPAL SEAL)

ATTEST:

CARRIE E. WARD,
MASTER MUNICIPAL CLERK
CITY CLERK

DAWN S. PARDO
CHAIRPERSON

JUDY L. DAVIS
CHAIR PRO TEM

BILLIE E. BROOKS
COUNCILPERSON

CEDRICK A. THOMAS
COUNCILPERSON

SHELBY L. LOWE
COUNCILPERSON

ORDINANCE NO. 3065
PAGE 10

| 1ST READING | | 2ND & FINAL READING | |
|---|---|---|---|
| MOTIONED BY: | S. LOWE | MOTIONED BY: | J. Davis |
| SECONDED BY: | B. BROOKS | SECONDED BY: | B. Brooks |
| D. PARDO | OUT | D. PARDO | aye |
| J. DAVIS | AYE | J. DAVIS | aye |
| B. BROOKS | AYE | B. BROOKS | aye |
| C. THOMAS | AYE | C. THOMAS | aye |
| S. LOWE | AYE | S. LOWE | aye |

REVIEWED AS TO LEGAL SUFFICIENCY

PAMALA HANNA RYAN, CITY ATTORNEY

DATE: 7/15/09

PHR:khs] 7.15.09