ORDINANCE NO. 1375

AN ORDINANCE OF THE VICE MAYOR AS ACTING MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 15 OF THE CITY OF NORTH MIAMI CODE OF ORDINANCES, ENTITLED "PENSIONS AND RETIREMENT", UNDER ARTICLE III ENTITLED "CLAIR T. SINGERMAN EMPLOYEES RETIREMENT SYSTEM; ORD. NO. 691", SPECIFICALLY AT DIVISION 4, SECTION 15-80 ENTITLED "ELIGIBILITY GENERALLY", TO ALLOW THE CITY MANAGER TO JOIN (OR TO REMAIN IN) THE CLAIR T. SINGERMAN EMPLOYEES RETIREMENT SYSTEM, AT THE OPTION OF THE CITY MANAGER; PROVIDING FOR CONFLICTS, SEVERABILITY, CODIFICATION AND FOR AN EFFECTIVE DATE.

WHEREAS, on May 27, 2014, the Vice Mayor as Acting Mayor and City Council of the City of North Miami ("City"), appointed Mr. Aleem A. Ghany, PE, as the City Manager ("City Manager") during a duly noticed public meeting; and

WHEREAS, on June 10, 2014, the Vice Mayor as Acting Mayor and City Council, authorized with conditions, the execution of an employment agreement between the City and City Manager for the appointed position, effective May 27, 2014; and

WHEREAS, prior to his official appointment, the City Manager was an eligible member and contributor of the Clair T. Singerman Employees Retirement System; Ord. No. 691 ("Pension Plan"), for a consecutive period of nineteen (19) years; and

WHEREAS, the City Manager has respectfully requested to remain in the Pension Plan as he faithfully continues to serve the City in his new official capacity; and

WHEREAS, the additional cost to be incurred by the City keeping the City Manager in the Pension Plan as opposed to contributing to a defined contribution retirement plan (such as a 457(b) plan under the Federal Employee Retirement Income Security Act), is expected to be immaterial; and

WHEREAS, the Board of Trustees of Retirement System of the City, after a duly noticed public meeting held on June 24, 2014, reviewed the proposed request and recommended approval, to the Vice Mayor as Acting Mayor and City Council; and

WHEREAS, the Vice Mayor as Acting Mayor and City Council of the City of North Miami desire to preserve the City Manager's membership in the Pension Plan, and therefore find the proposed amendment to Section 15-80, is in the best interest of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE VICE MAYOR ACTING AS MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Amendment to Chapter 15 Code of Ordinances. The Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, hereby amend Chapter 15 of the City of North Miami Code of Ordinances, entitled "Pensions and Retirement", under Article III entitled "Clair T. Singerman Employees Retirement System; Ord. No. 691", specifically at Division 4, Section 15-80 entitled "Eligibility Generally", to allow the City Manager to join (or to remain in) the Clair T. Singerman Employees Retirement System, at the option of the City Manager, as follows:

CHAPTER 15 – PENSIONS AND RETIREMENT

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ARTICLE III. CLAIR T. SINGERMAN EMPLOYEES RETIREMENT SYSTEM; ORD. NO. 691

DIVISION 4. ELIGIBILITY AND MEMBER CONTRIBUTIONS

Sec. 15-80. Eligibility Generally.

(a) All general employees shall be eligible for membership and shall become members of the system immediately upon being employed on a full-time permanent basis pursuant to the city's administrative rules and regulations. The city attorney ~~and the city manager~~ shall not be ~~members~~ a member of any retirement system. Membership of the city manager shall be optional upon the appointment of the position by the mayor and city council, provided he or she has been a city employee and plan member for at least ten (10) years. Upon such appointment, the city manager may elect to stay in the plan, or if not already a member, elect to join the membership of the plan with all rights, benefits, obligations and duties of the plan that are in effect at the date of election. General employees, sworn police personnel and firefighters who were members of this plan on or before April 3, 1994, shall remain members of this plan. Effective April 3, 1994, all general employees who are members of Pension Ordinance 748 on that date, shall become members under Pension Ordinance 691; and credited service for these members under Pension Ordinance 748 shall be credited service under Pension Ordinance 691.

Any general employee who accepts an appointment as a police officer after April 3, 1994, shall be transferred to the Pension Ordinance 748 Pension Plan, said transfer to be effective on the

date of the appointment as a sworn police officer. All members previously retired and currently drawing monthly retirement benefits and who have not taken such benefits in a lump sum, shall be eligible for the increased benefits provided pursuant to this article, retroactively only to the effective date of this article, provided they have had at least fourteen (14) years of service with the city. The following shall not be eligible:

(1) Medical directors;

(2) Contractual employees;

(3) Appointed board members;

(4) Sworn police personnel and police administrators who are members of Pension Ordinance 748 Pension Plan.

(b) The deputy or assistant city managers, and the deputy or assistant city attorneys employed on [insert the effective date of this Ordinance] shall have thirty (30) days from [insert the effective date of this Ordinance] to submit his or her written election to become a member of the plan to the board. Any person appointed or promoted to the position of deputy city manager, assistant city manager, deputy city attorney, or assistant city attorney on or after [insert the effective date of this Ordinance] shall have thirty (30) days from the date of such appointment or promotion to submit his or her written election to become a member of the plan to the board. Elections made pursuant to this paragraph are irrevocable. Any person electing to join the plan pursuant to this paragraph may elect to receive membership service credit for prior service with the city. Such prior membership service credit shall be at no cost to the plan and shall be paid within six (6) months of the employee's election to become a member of the plan. Any employee covered by this paragraph who has been making contributions to the plan pursuant to section 15-81 shall be deemed to be a member of the plan from the date the employee began making contributions to the plan.

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Section 2. **Conflicts.** All ordinances or parts of ordinances in conflict or inconsistent with the provisions of this Ordinance are hereby repealed.

Section 3. **Severability.** The provisions of this Ordinance are declared to be severable, and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 4. **Codification.** The provisions of this Ordinance may become and be made a part of the Code of Ordinances of the City of North Miami, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article" or any other appropriate word.

Section 5. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading, and shall be made retroactive to May 27, 2014.

PASSED AND ADOPTED by a 3 - 1 vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, on first reading this 24th day of June, 2014.

PASSED AND ADOPTED by a 4-0 vote of the Vice Mayor as Acting Mayor and City Council of the City of North Miami, Florida, on second reading this 8th day of July, 2014.

PHILIPPE BIEN-AIME
VICE MAYOR AS ACTING MAYOR

ATTEST:

MICHAEL A. ETIENNE, ESQ.
CITY CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

REGINE M. MONESTIME
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin

Seconded by: Bien-Aime

Vote:

Vice Mayor as Acting Mayor Philippe Bien-Aime	x (Yes)	_____ (No)
Councilperson Scott Galvin	x (Yes)	_____ (No)
Councilperson Carol Keys, Esq.	x (Yes)	_____ (No)
Councilperson Marie Erlande Steril	x (Yes)	_____ (No)

Additions shown by underlining. Deletions shown by ~~overstriking~~.