ORDINANCE NO. 1384

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AMENDING CHAPTER 15 OF THE CODE OF ORDINANCES, ENTITLED "PERSONNEL, PENSION, AND RETIREMENT" BY AMENDING ARTICLE IV, ENTITLED "CLAIR T. SINGERMAN EMPLOYEES RETIREMENT SYSTEM," TO COMPLY WITH THE INTERNAL REVENUE CODE BY AMENDING SECTION 15-85.1 "MILITARY SERVICE CREDIT; CONTRIBUTIONS FOR MILITARY SERVICE", SECTION 15-93 "DEATH BENEFITS", AND SECTION 15-98 "DIRECT TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS"; PROVIDING FOR SEVERABILITY, CODIFICATION AND AN EFFECTIVE DATE.

WHEREAS, the Clair T. Singerman Employees Retirement System (the "System") has received a determination letter from the Internal Revenue Service which requires amendments to the System to comply with the Internal Revenue Code (Exhibit "A"); and

WHEREAS, the City of North Miami has determined that amending the System to comply with the Internal Revenue Code is in the best interests of the employees and citizens of the City.

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

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Amendment to City Code.** Chapter 15 of the City of North Miami Code of Ordinances, entitled "Personnel, Pensions and Retirement" is hereby amended by amending sections 15.85.1, 15-93 and 15-98 to read as follows:

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Chapter 15 – **PERSONNEL, PENSIONS AND RETIREMENT**

Article IV. Clair T. Singerman Employees Retirement System

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Sec. 15-85.1. - Military service credit; contributions for military service.

Members shall have the option to purchase for up to four (4) years of active duty military service with the U.S. Armed Forces or her allies if each of the following requirements are also met:

(1) Members must complete ten (10) years of creditable service in the city system before becoming eligible to claim such military credit. A member must make a written election of this option within four (4) years of eligibility on a form provided by the city, with such election accompanied by the documentation set forth in subsection (2) below, and an agreement that the member will pay the amount calculated pursuant to subsection (3) below at the time and in the form and manner set forth therein.

(2) To receive retirement credit for active military service, a member must submit with such written election an original or certified copy of their certificate of service (Form DD214) showing the date of entry into active service and date of discharge under honorable conditions.

(3) To receive retirement credit for active military service, a member who is an active employee of the city must pay out of his salary a weekly amount equal to one fifty-second (1/52) of four (4) percent of his annual city salary, based on the amount earned in their first year of creditable service with the city, for each year of military service credit claimed, along with interest at five (5) percent compounded annually, with the members required contribution hereunder to be picked-up by the city pursuant to I.R.S. Code Section 414(h)(2). In the case of a member who ceases to be an active city employee prior to the total payment of all amounts due and owing under this subsection (3), all amounts which remain payable under this subsection (3) at the time of the member's termination of employment shall immediately become due and payable in one (1) lump sum.

(4) All military service credited under this section shall be treated, for purposes hereof, as credited city service. The benefit percentage per year of service as applicable for this military service is three (3) percent of final average compensation.

(5) Military service credit shall become effective only after full payment as provided in subsection (3) above.

Notwithstanding any provision of this plan to the contrary, effective as of December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986, as amended, USERRA or F.S. chs. 175 and 185, as applicable.

<u>For years beginning after December 31, 2008, (i) an individual receiving a differential wage payment, as defined in Section 3401(h)(2) of the Internal Revenue Code, shall be treated as an employee of the employer making the payment, (ii) the differential wage payment shall be treated as compensation, and (iii) the plan shall not be treated as failing to meet the requirements of any provision described in Section 414(u)(1)(C) of the Internal Revenue Code by reason of any contribution or benefit which is based on the differential wage payment.</u>

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Sec. 15.93. - Death benefits.

(a) *Death before retirement.*

(1) *Service connected.* Upon the death of a member where the cause of death is the direct result of an act or occurrence arising from employment there shall be paid to such deceased member's surviving spouse, till death or, as to general employees, remarriage, or for or on behalf of any child under age nineteen (19) years, a monthly benefit equal to fifty (50) percent of such deceased member's monthly compensation at the time of death, plus ten (10) percent of such member's monthly compensation to each child under age nineteen (19) years. Except as provided elsewhere in this section the total maximum death benefit shall be one hundred (100) percent of compensation, or fifty (50) percent if there is no surviving spouse. If survivors receive benefits from social security or workers' compensation the amount of compensation from this pension plan shall be reduced by an amount so that all funds collected from workers' compensations and social security and the pension plan shall not exceed one hundred (100) percent of the employee's salary at the time of death. Benefits payable from any veterans' benefits or pension under state or federal law will not require an offset from this pension plan. If the deceased member had previously selected an option, such option shall apply to the exclusion of other provisions herein. Death benefits paid to a surviving spouse of a sworn police officer or fire fighter shall not be effected by remarriage, provided the city continues to receive state excise tax monies as provided in F.S. §§ 185.08 and 175.101.

(2) *Nonservice-connected.*

a. Upon the nonservice-connected death of a member not entitled to an early or normal retirement benefit there shall be paid to such deceased member's beneficiaries an amount equal to such member's prior vested benefit plus his accumulated contributions.

b. Upon the nonservice-connected death of a member entitled to an early or normal retirement benefit, without such member having previously selected an option under which survivorship benefits are payable, it shall be assumed that such member had elected Option B2 (life and ten (10) years certain basis) and retired immediately preceding his death. If the deceased member had previously selected an option, such option shall apply to the exclusion of other provisions in this section.

(b) *Death after retirement.* Any benefit payable by reason of the death of a retiree shall be pursuant to the option selected prior to retirement. If no option has been selected, the death benefit payable shall be the difference between the retired member's prior vested benefit plus his accumulated contributions as of his retirement date and the total monthly retirement benefits paid prior to his date of death.

(c) *Death During Qualified Military Service*. In the case of a death or disability occurring on or after January 1, 2007, if a participant dies while performing qualified military service (as defined in Section 414(u) of the Internal Revenue Code), the survivors of the participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the plan as if the participant had resumed and then terminated employment by the City on account of death.

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Sec. 15-98. - Direct transfers of eligible rollover distributions.

(a) *General*. This section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the system to the contrary that would otherwise limit a distributee's election under subsection 15-94(1) or (2) and subsection 15-95(4), (6) or (7), a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) Definitions.

(1) *Eligible rollover distribution:* An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; any distribution to the extent such distribution is required under section 401(a)(9) of the Code; and the portion of any distribution that is not includable in gross income.

(2) *Eligible retirement plan:* An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, an annuity plan described in section 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in section 403(b) of the Internal Revenue Code and an eligible plan under section 457(b) of the Internal Revenue Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan.

(3) *Distributee*: A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse is a distributee with regard to the interest of the spouse. Effective as of January 1, 2008, an employee's or former

employee's non-spouse beneficiary is a distributee with regard to the interest of the employee or former employee.

(4) *Direct rollover:* A direct rollover is a payment by the plan to the eligible retirement plan specified by the distributee. Effective as of January 1, 2008, a non-spouse beneficiary may make a direct rollover only to an "inherited" individual retirement account as described in section 408(b) of the Internal Revenue Code. If a non-spouse Beneficiary receives a distribution from the plan, the distribution is not eligible for a 60-day (non-direct) rollover.

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Section 3. **Severability.** Should this Ordinance or any part thereof be declared invalid by a Court of competent jurisdiction, the invalidity of any part of this Ordinance shall not otherwise affect the validity of the remaining provisions of this Ordinance, which shall be deemed to have been enacted without the invalid provision.

Section 5. **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 6. **Effective Date.** This Ordinance shall become effective immediately upon adoption on second reading.

PASSED AND ADOPTED by a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, on first reading this 14th day of April, 2015.

PASSED AND ADOPTED by a 5 - 0 vote of the Mayor and City Council of the City of North Miami, Florida, on second reading this 28th day of April, 2015.

DR. SMITH JOSEPH
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: Keys

Seconded by: Galvin

Vote:

Mayor Smith Joseph, D.O., Pharm.D	X (Yes)	____ (No)
Vice Mayor Carol Keys, Esq.	X (Yes)	____ (No)
Councilperson Scott Galvin	X (Yes)	____ (No)
Councilperson Philippe Bien-Aime	X (Yes)	____ (No)
Councilperson Marie Erlande Steril, MSW	X (Yes)	____ (No)

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