

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, AUTHORIZING THE CITY ATTORNEY TO FILE CIVIL ACTIONS AGAINST THE BOARDS OF TRUSTEES OF THE POLICE OFFICERS RETIREMENT SYSTEM, THE FIREFIGHTERS PENSION SYSTEM, AND THE EMPLOYEES RETIREMENT FUND (COLLECTIVELY, THE "BOARDS") FOR THE IMPROPER PAYMENT OF SUPPLEMENTAL DISTRIBUTIONS.

WHEREAS, the pension plan for Hollywood police officers provides for a supplemental distribution to eligible retirees for each year in which the rate of investment return on the assets of the fund exceeds the assumed rate; and

WHEREAS, the pension plan for Hollywood firefighters provides for the payment of a supplemental distribution to eligible retirees for each year in which the rate of investment return on the assets of the fund exceeds the assumed rate; and

WHEREAS, the pension plan for Hollywood general employees provides for the payment of a supplemental distribution to eligible retirees for each year in which the rate of investment return on the assets of the fund exceeds the assumed rate plus 2%; and

WHEREAS, the payment of supplemental distributions is governed not only by the pension plans but also by Florida Statute Section 112.61; and

WHEREAS, Section 112.61 provides, in relevant part, that the actuarial experience of a pension fund may be used to fund additional benefits *only* if the present value of such benefits does not exceed the net actuarial experience accumulated from all sources of gains and losses; and

WHEREAS, each of the Boards has made one or more supplemental distributions, totaling millions of dollars, which, in the opinion of the City Attorney, violated Section 112.61 and which have had and/or will have the effect of increasing the City's required contributions to the plans by the same millions of dollars; and

WHEREAS, the City Attorney recommends that the City Commission authorize the filing of one or more civil actions against the Boards, and any other appropriate parties, to enforce the City's rights with respect to limiting the supplemental distributions made by the Boards only to those instances in which the above cited statute would allow them and to seek any and all relief to which the City may be entitled; and

WHEREAS, the Florida Governmental Conflict Resolution Act (the "Act") creates a mandatory governmental conflict resolution procedure that must be complied with prior to the filing of a civil action by one governmental entity against another governmental entity, unless the first government entity, by a three-fourths vote of its governing body, finds that an immediate danger to the health, safety, or welfare of the public requires immediate action, or that significant legal rights will be compromised if a court proceeding does not take place before the provisions of the Act are complied with;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the City Attorney is hereby authorized to file one or more civil actions against the Boards and any other appropriate parties to enforce the City's rights with respect to the supplemental distributions made by the Boards and to seek any and all relief to which the City may be entitled.

Section 2: That the City Commission hereby finds that an immediate danger to the health, safety or welfare of the public requires immediate action or that significant legal rights will be compromised if a court proceeding does not take place before the provisions of the Act are complied with.

Section 3: That this resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this _____ day of _____, 2015.

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PETER BOBER, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC, CITY CLERK

APPROVED AS TO FORM & LEGALITY
for the use and reliance of the
City of Hollywood, Florida only:

JEFFREY P. SHEFFEL, CITY ATTORNEY