

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, REGARDING SUPPLEMENTAL DISTRIBUTIONS MADE BY THE CITY'S PENSION BOARDS; FINDING AN IMMEDIATE DANGER OR THE COMPROMISE OF SIGNIFICANT LEGAL RIGHTS IF A COURT PROCEEDING DOES NOT TAKE PLACE BEFORE THE FLORIDA GOVERNMENTAL CONFLICT RESOLUTION ACT IS COMPLIED WITH.

WHEREAS, each of the defined benefit pension plans sponsored by the City of Hollywood - general employees, fire, and police - provides for the pension board to make a supplemental distribution to eligible retirees when the rate of investment return on the assets of the pension fund exceeds a certain percentage; and

WHEREAS, supplemental distributions are governed not only by the pension plans but also by Florida Statutes Section 112.61; and

WHEREAS, each of the City's pension boards (collectively, 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/or the applicable pension plan; and

WHEREAS, those supplemental distributions have had the effect of increasing, by millions of dollars, the City's annual required contributions to the pension plans; and

WHEREAS, on July 8, 2015, the City Commission adopted Resolution No. R-2015-214, which authorized 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 supplemental distributions made by the Boards; and

WHEREAS, Florida Statutes Chapter 164, known as the Florida Governmental Conflict Resolution Act (the "Act"), creates lengthy procedures ("Chapter 164 Procedures") 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 Chapter 164 procedures are complied with; and

WHEREAS, Resolution No. R-2015-214 contains the findings that are necessary to proceed immediately to a civil action without following the Chapter 164 Procedures; and

WHEREAS, Resolution No. R-2015-214 was approved by a 4-3 vote, but six affirmative votes of the City Commission were required to meet the three-fourths vote required by the Act; and

WHEREAS, pursuant to Resolution No. R-2015-214, the City filed a civil action (the "Action") against the Boards, but the Action was abated by court order and remains abated "until the procedural requirements of the Act have been exhausted"; and

WHEREAS, although the City and the Boards have attempted to follow the Chapter 164 Procedures, it would likely take months, if not a year or more, to complete them; and

WHEREAS, City staff believes it would be appropriate for the City Commission to reiterate the findings that were made in Resolution No. R-2015-214; and

WHEREAS, the City Attorney believes that if the City Commission makes the required findings by a 6-1 or 7-0 vote before the Chapter 164 Procedures are completed, a motion by the City to lift the order abating the Action could be granted, the Chapter 164 Procedures will not have to be completed, and the City will be able to move forward with the Action.

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

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: That it finds that, with respect to the current dispute over supplemental distributions made by the Boards, an immediate danger to the health, safety or welfare of the public requires immediate action or significant legal rights will be compromised if a court proceeding does not take place before the provisions of the Act are complied with, and as a result, waives the Chapter 164 proceedings.

RESOLUTION REGARDING SUPPLEMENTAL DISTRIBUTIONS MADE BY THREE PENSION BOARDS; MAKING FINDINGS NECESSARY, UNDER FLORIDA STATUTES CHAPTER 164, TO MOVE FORWARD WITH CIVIL ACTION FILED BY THE CITY AND SUBSEQUENTLY ABATED BY THE COURT.

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

PASSED AND ADOPTED this _____ day of _____, 2018.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC, CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY for the use and reliance of the City of Hollywood, Florida only:

DOUGLAS R. GONZALES
CITY ATTORNEY