ORDINANCE 2016-36

AN ORDINANCE OF THE CITY OF OCALA, FLORIDA, AMENDING THE OCALA FIREFIGHTERS RETIREMENT PLAN SET FORTH IN CHAPTER 43 OF THE CITY CODE; AMENDING AND ADDING NEW DEFINITIONS FOR A SECOND TIER IN SECTION 43-21 OF THE CITY CODE; LOWERING THE EMPLOYEE CONTRIBUTION TO 8.17% IN SECTION 43-25 OF THE CITY CODE; REDUCING THE DROP INTEREST RATE FOR THE SECOND TIER IN SECTION 43-27 OF THE CITY CODE; AMENDING THE PROVISIONS FOR MILITARY BUYBACK IN SECTION 43-28 OF THE CITY CODE; AMENDING THE COLA IN SECTION 43-35 OF THE CITY CODE; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR CODIFICATION; REPEALING ALL ORDINANCES IN CONFLICT HEREWITH AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Ocala is the Plan Sponsor for the Ocala Firefighters Retirement Plan ("Plan");

WHEREAS, the City previously adopted Ordinance 3088 which established and consolidated the Plan, effective October 1, 1999;

WHEREAS, the City and Plan are required to comply with the requirements of Chapter 175, Florida Statutes, in order to continue receiving insurance premium tax revenue from the State of Florida;

WHEREAS, the most recent collective bargaining agreement ("CBA") between the City and IAFF Local 2135 provides for amendments to the Plan, including the creation of a new second tier of benefits for employees less than five years from normal retirement (hereinafter "Component B");

WHEREAS the CBA provides that half of all annual insurance premium tax revenues above $240,401 shall be used to fund the COLA, with the other half being dedicated to pay down the Plan's unfunded actuarial liability;

WHEREAS the CBA provides that when the Plan's funded ratio reaches 90%, all premium taxes above the $240,401 level shall be used to fund the COLA;

WHEREAS, it is necessary to amend the Plan to effectuate the CBA provisions;

WHEREAS, the Board of Trustees of the Firefighters Retirement Plan has recommended the adoption of these amendments; and

WHEREAS, the City Council of the City of Ocala has determined that this ordinance is in the best interests of the members of the retirement plan and the citizens of Ocala;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OCALA, FLORIDA:

Section 1. Section 43-21 of the City Code (Article 2 of the Plan) is hereby amended as follows:

Sec. 43-21. - Definitions.

Component A shall mean the first tier of the Plan. Earnable compensation for Component A shall be calculated using total compensation from the City. Final monthly compensation shall be calculated based on the three consecutive years of employment which are the greatest within the last five years of employment. Effective November 1, 2015, all firefighters who were within five years of normal retirement under the Rule of 70 shall be entitled to Component A benefits.

Component B shall mean the second tier of the Plan. Effective November 1, 2015, all firefighters who were not within five years of normal retirement under the Rule of 70 shall be entitled to Component B benefits.

Component B benefits shall be the same as Component A benefits except for the following:

(i) Earnable compensation for Component B shall be calculated using base salary, state educational incentive pay, and up to 300 hours of overtime pay per fiscal year, excluding all other compensation.

(ii) Final monthly compensation for Component B shall be calculated based on the highest five of the last ten years of service prior to retirement or termination of employment.

(iii) The DROP interest rate for Component B shall be a sliding scale with a minimum of 1% and a maximum of 3%, as set forth in Section 43-27(o).

Earnable compensation for Component A shall mean a member's total compensation from the city for services rendered and shall include base salary, including pick-up contributions,

overtime, assignment pay, and educational incentive. For Component B earnable compensation shall mean a member's base salary, state educational incentive pay, and up to 300 hours of overtime pay per fiscal year, excluding all other compensation, provided that a Component B member's accrued benefit on the effective date shall not be reduced. Effective for years beginning on or after January 1, 1996 the annual limit on compensation imposed by section 401(a)(17) of the Internal Revenue Code ($160,000.00 for 2001) shall apply to the earned income of each non-eligible participant to the extent required by guidelines issued by the Internal Revenue Service. The limit imposed by section 401(a)(17) of the Internal Revenue Code shall not apply to an eligible participant. For the purposes of this paragraph, an eligible participant is any individual who first became a member of the retirement plan before January 1, 1996. A non-eligible participant is any member who is not an eligible participant.

Final monthly compensation for Component A shall mean a member's average monthly rate of earnable compensation from the city during the three consecutive years of employment which is greatest within the last five years of employment; provided that if a member has been employed for fewer than three years, such average shall be taken over the period of actual employment. For Component B final monthly compensation shall mean a member's average monthly rate of earnable compensation from the city during the highest five of the last ten years of employment; provided that if a member has been employed for fewer than five years, such average shall be taken over the period of actual employment.

Section 2. Section 43-25 of the City Code (Article V, Section 5.01 of the Plan) is hereby amended to read as follows:

Sec. 43-25. - Contributions.

(a) Effective May 1, 2015, the city shall pick-up, rather than deduct from each member's pay, beginning with the later of the effective date and the first date of membership in the plan, the sum of eight and seventeen one hundredths percent (8.17%) of the earnings of firefighters, of which fifty one hundredths of one percent (.50%) shall be used as partial funding of the cost-of-living benefit (COLA).

Section 3. Section 43-27 of the City Code (Article VII, Section 7.15 of the Plan) is hereby amended to read as follows:

Sec. 43-27. - Service retirement benefits; deferred retirement option plan.

(o) While in the DROP, a Component A member's account shall either gain or lose interest, based on self-directed investment, or may gain or lose interest at a fixed rate of 100 basis points less than the plan's assumed rate of investment return. Members choosing the fixed rate option

consent by their participation to a change in the rate of return if the board changes the actuarially assumed rate of investment return. The board, by rule, shall establish the terms of the program. While in the DROP, a Component B member's account shall earn interest on a sliding scale with a minimum rate of 1% and a maximum rate of 3%, based on a ten year average of annual Plan returns, as calculated by the Plan's actuary.

Section 4. Section 43-28 of the City Code (Article VIII, Section 8.01 of the Plan) is hereby amended to read as follows:

Sec. 43-28. - Buy-back for military service.

(a) *Military service*:

(i) *Intervening military service* (governed by Section 175.032(6)(d), Fla.Stat): Any member of the plan who is employed by the city prior to entry into military service and who takes a leave of absence for the purpose of entering into military service in the Armed Forces of the United States and thereafter re-enters the employ of the city, shall be credited with up to five years of service if:

1. The firefighter is in the active employ of the City immediately before such service and leaves a position, other than a temporary position, for the purpose of voluntary or involuntary service in the Armed Forces of the United States.

2. The firefighter is entitled to reemployment under the Uniformed Services Employment and Reemployment Rights Act.

3. The firefighter returns to his or her employment as a firefighter within 1 year after the date of release from such active service.

(ii) *Prior military service*: Any member of the Plan with military service in the Armed Forces of the United States prior to employment with the City shall be entitled to purchase up to five years of service credit for the period of absence by contributing the full actuarially determined cost of the service. Members shall have the option to treat the prior service for vesting purposes, or only for benefit accrual purposes. In either case, the member will be required to contribute the full actuarial cost of the prior military service purchased by the member.

Section 5. Section 43-35 of the City Code (Article XV, Section 15.01 and 15.02 of the Plan) is hereby amended to read as follows:

Sec. 43-35. - Cost of living benefits.

(a) A cost of living (COLA) fund was created by Ordinance 3088 creating COLA benefits for eligible members who were employed as firefighters on or after October 1, 1999. Effective September 30, 2015, the COLA balance has grown to $1,130,461. The COLA shall be funded from the following four sources: (i) member contributions in the amount of one half of one percent, (ii)_half of all Chapter 175 premium tax revenue received annually in excess of $240,401, and (iii) investment gains on COLA assets, and (iv) the balance of the Chapter 175 premium tax reserve account as of September 30, 2015 ($3,515,081), less $1,000,000 applied to the unfunded actuarial accrued liability of the pension fund (net $2,515,081).

Upon the Plan reaching a funded ratio of 90% (actuarial value of assets divided by actuarial liabilities), all Chapter 175 premium tax revenues received annually in excess of $240,401 shall be applied to the COLA fund.

(b) Investment gains shall only be calculated based on COLA assets.

(1) The COLA benefit distribution will be determined by the board, based solely on available COLA assets and the recommendation of the actuary for the plan, using a benefit table created by the actuary, in accordance with Florida laws, using generally accepted actuarial principles and prudent reserves. Such table is subject to modification by the board annually based solely upon available assets and recommendations by the plan actuary, using generally accepted actuarial principles and prudent reserves. The COLA assets shall be identified and distributed in a defined tabular format.

(2) The COLA benefits table shall be based upon:

(i) full years of creditable service at time of retirement plus years of service in DROP; and

(ii) full years of retirement following separation from service.

The first table shall be created as of January 1, 2016, and each January 1 thereafter. There shall be increasing dollar amounts for each additional full year of service, including DROP participation, and full year of retirement. For eligible members retired as of January 1, 2016, the initial monthly distributions shall be made retroactive to January 1, 2016; for all other eligible members, monthly distribution shall commence as soon as is administratively possible following separation from service.

(3) The COLA fund shall be credited with the same market rate of investment return as the pension fund for each plan year, net of all investment-related expenses, but not less than zero

percent or more than 7%. Monies in excess of 7%, determined as the ten year average of annual Plan returns, shall be applied to reduce the unfunded actuarial accrued liability of the pension fund, until the pension fund reaches a funded ratio of 90%.

(4) Retirement plan pension assets, including the COLA account, but excluding DROP accounts, are integrated for investment purposes, with separate accounting maintained for administrative purposes.

(5) COLA benefits will be determined on a defined benefit basis.

(6) The actuarial interest and mortality assumptions used for the retirement plan will be used for COLA.

Section 6: If any section, subsection, sentence, clause, phrase of this ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

Section 7: Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Ocala.

Section 8: All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

Section 9: That this Ordinance shall become effective upon its adoption, unless otherwise provided herein.

ATTEST:

By: Angel B. Jacobs
Angel B. Jacobs
City Clerk

CITY OF OCALA

By: James P. Hilty
James P. Hilty, Sr.
President, Ocala City Council

Approved/Denied by me as Mayor of the City of Ocala, Florida, on 6/21, 2016.

By: Reuben Kent Guinn
Reuben Kent Guinn
Mayor

Approved as to form and legality:

By: _____
Patrick G. Gilligan
City Attorney

Ordinance No:	2016-36
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Adopted:	6/21/2016
Legal Ad No:	A000890401 - 6/10/16