



MEMORANDUM

Office of the City Attorney

Legistar No. 002141

Phone: 334-5011/Fax 334-2229
Box 46

TO: Mayor and City Commission

DATE: February 11, 2002
FIRST READING

FROM: City Attorney

SUBJECT: Ordinance No. 0-02-06
An ordinance of the City of Gainesville, Florida, amending section 2-523 of the Code of Ordinances of the City of Gainesville relating to the General Employees Pension Plan; relating to funds which may be used to convert certain limited participant service to eligible service; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing retroactive effective dates.

Recommendation: The City Commission adopt the proposed ordinance.

At its meeting of November 26, 2001, the City Commission authorized the City Attorney to draft and the Clerk of the Commission to advertise an ordinance amending the City of Gainesville General Employees Pension Plan related to recent changes in federal tax laws. Ordinance No. 002185, adopted January 14, 2002, made certain changes in this regard. Management has subsequently suggested certain other changes to provide greater ability to more fully effectuate the opportunities brought about by the recent changes, and to ratify certain actions heretofore taken related to the same subject. The primary effect of the proposed ordinance is to provide more cost effective methods for certain limited participants to avail themselves of their right to "convert" prior ineligible participant service to eligible service, now that such has been made more feasible by the recent tax law changes.

Prepared by:

Charles L. Hauck,
Sr. Assistant City Attorney

Approved and
Submitted by:

Marion J. Radson,
City Attorney

MJR:CLH:sw

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2-1-02

ORDINANCE NO. _____
0-02-06

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An ordinance of the City of Gainesville, Florida, amending section 2-523 of the Code of Ordinances of the City of Gainesville relating to the General Employees Pension Plan; relating to funds which may be used to convert certain limited participant service to eligible service; providing directions to the codifier; providing a severability clause; providing a repealing clause; and providing retroactive effective dates.

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13 **WHEREAS**, pursuant to law, at least ten days notice has been given prior to
14 adoption by publication in a newspaper of general circulation notifying the public of this
15 proposed Ordinance and of a Public Hearing to be held in the City Commission meeting
16 room, First Floor, City Hall, in the City of Gainesville; and

17 **WHEREAS**, Public Hearings were held pursuant to law, at which hearings the
18 parties in interest and all others had an opportunity to be and were, in fact heard.

19

20 **NOW, THEREFORE**, BE IT ORDAINED BY THE CITY COMMISSION OF
21 THE CITY OF GAINESVILLE, FLORIDA:

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23 **Section 1.** Section 2-523(i)(3) of the Code of Ordinances of the City of Gainesville is
24 hereby amended to read as follows:

25

26 Sec. 2-523. Membership and service.

27 (3) A limited participant who elects to reenter this plan as an eligible member,
28 as provided in subsection (i)(2), shall have the option to have all years of limited

1 participant service count as eligible service by contributing to the plan the
 2 actuarial present value of benefits that are projected to be applicable for all the
 3 years of service as an ineligible member. Such present value shall be
 4 determined by the Plan Actuary using the 1983 Group Annuity Mortality Table-
 5 Unisex 50/50 and an interest rate of 9.5 percent. This option may be elected by
 6 the participant at any time while actively employed as an eligible member.
 7 Amounts contributed pursuant to this subsection (3) shall be considered
 8 employee contributions for the purpose of subsections 2-526(a)(3) and (e), (f),
 9 (g), and (h). Transfers of all or part of a member's account in the City of
 10 Gainesville's defined contribution 401(a) Plan will be accepted by this Plan for
 11 this purpose.

12
 13 **Section 2.** A new subsection 2-523(i)(5) is hereby created and added to read as follows:

14 Sec. 2-523. Membership and service.

15 (5) Effective January 1, 2002, for purposes of contributing amounts to the
 16 Plan, as described in subsection (i)(3) above, the Plan will accept a transfer of all
 17 or part of a member's account in the City of Gainesville 457(b) Plan and will
 18 accept rollover contributions and/or direct rollovers of distributions (including
 19 after-tax contributions) made after December 31, 2001 that are eligible for
 20 rollover in accordance with Section 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii),
 21 or 457(e)(16) of the Code, from all of the following types of plans: (1) a qualified
 22 plan described in Section 401(a) or 403(a) of the Code; (2) an annuity contract
 23 described in Section 403(b) of the Code; (3) an eligible plan under Section 457(b)

1 of the Code which is maintained by a state, political subdivision of a state, or any
 2 agency or instrumentality of a state or political subdivision of a state; and (4) an
 3 individual retirement account or annuity described in Section 408(a) or 408(b) of
 4 the Code (including SEPs, and SIMPLE IRAs after 2 years of participating in the
 5 SIMPLE IRA). The amount distributed from such plan must be rolled over to this
 6 Plan no later than the sixtieth (60th) day after distribution was made from the
 7 plan, unless otherwise waived by the IRS pursuant to Section 402(c)(3) of the
 8 Code.

9
 10 **Section 3.** It is the intention of the City Commission that the provisions of Sections 1
 11 and 2 of this Ordinance shall become and be made a part of the Code of Ordinances of the
 12 City of Gainesville, Florida, and that the Sections and Paragraphs of this Ordinance may
 13 be renumbered or relettered in order to accomplish such intentions.

14
 15 **Section 4.** If any section, sentence, clause or phrase of this ordinance is held to be
 16 invalid or unconstitutional by any court of competent jurisdiction, then said holding shall
 17 in no way affect the validity of the remaining portions of this ordinance.

18
 19 **Section 5.** All ordinances or parts of ordinances in conflict herewith are to the extent
 20 of such conflict hereby repealed.

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 22 **Section 6.** Section 1 of this ordinance shall be effective retroactive to May 1, 1999.
 23 Section 2 of this ordinance shall be effective retroactive to January 1, 2002. The

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1 remaining sections of this ordinance shall be effective immediately upon adoption.

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PASSED AND ADOPTED this ____ day of February, 2002.

THOMAS D. BUSSING
MAYOR

ATTEST:

Approved as to form and legality

KURT M. LANNON
CLERK OF THE COMMISSION

MARION J. RADSON
CITY ATTORNEY

22 This Ordinance passed on first reading this ____ day of February, 2002.

23 This Ordinance passed on second reading this ____ day of February, 2002.

