

**CITY OF HOLLYWOOD
EMPLOYEES' RETIREMENT FUND**

CALENDAR OF ITEMS

REGULAR BOARD MEETING

JANUARY 14, 2025

AGENDA ITEM 1

CALL TO ORDER

(NO BACKUP FOR THIS SECTION)

AGENDA ITEM 2
ROLL CALL
PLEDGE OF ALLEGIANCE

AGENDA ITEM 2.A.

AGENDA ADOPTION



CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND

2450 Hollywood Blvd. • Suite 204 • Hollywood, FL 33020
(954) 921-3333 • (954) 921-3332 Fax • www.hollywoodpension.com

AGENDA
REGULAR PENSION BOARD MEETING
TUESDAY, JANUARY 14, 2025 at 9:00 AM
PENSION OFFICE, ROOM 209, 2450 HOLLYWOOD BOULEVARD

- 1. CALL TO ORDER**
- 2. ROLL CALL AND PLEDGE OF ALLEGIANCE**
 - A. Agenda Adoption
- 3. CONSENT AGENDA**
 - A. December 10, 2024 Annual Meeting Minutes
 - B. Ratification of Distributions (Contributions and DROP) and Plan Expenses
 - C. Approval/Ratification of New Retirements/DROP/Vested/Death Annuities
- 4. FINANCIAL**
 - A. Financial Reports and Investment Summary
- 5. INVESTMENT (Segal Marco Advisors)**
 - A. Update on Segal Marco
 - B. November 2024 Flash Performance Report
 - C. Third Quarter Performance Review
- 6. LEGAL (Ron Cohen – Lorium Law)**
 - A. Legal Update
 - B. Member DROP Account Distribution and Monthly Benefit Payments
 - C. Request for Executive Session to Discuss Pending Litigation
- 7. EXECUTIVE DIRECTOR'S REPORT**
 - A. City Commission Communication
 - B. Pension Office Update
 - C. Communications from the Executive Director
- 8. PUBLIC COMMENTS**
- 9. TRUSTEE REPORTS, QUESTIONS AND COMMENTS**
- 10. ADJOURNMENT**

PERSONS WITH DISABILITIES WHO REQUIRE REASONABLE ACCOMMODATION TO PARTICIPATE IN AN EMPLOYEES' RETIREMENT FUND BOARD MEETING MAY CALL THE PENSION OFFICE FIVE (5) BUSINESS DAYS IN ADVANCE AT 954-921-3333 (VOICE). IF AN INDIVIDUAL IS HEARING OR SPEECH IMPAIRED, PLEASE CALL 800-955-8771 (V-TDD). *ANY PERSON WISHING TO APPEAL ANY DECISION MADE BY THE BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSES MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS MADE.* *THIS MEETING MAY BE CONDUCTED BY MEANS OF OR IN CONJUNCTION WITH COMMUNICATION MEDIA TECHNOLOGY, THE TYPE BEING A SPEAKER TELEPHONE.* *IN COMPLIANCE OF STATE LAW, THE BOARD OF TRUSTEES FINDS THAT A PROPER AND LEGITIMATE PURPOSE IS SERVED WHEN MEMBERS OF THE PUBLIC HAVE BEEN GIVEN A REASONABLE OPPORTUNITY TO BE HEARD ON A MATTER BEFORE THE BOARD. THEREFORE, THE BOARD OF TRUSTEES HAVE DETERMINED AND DECLARED THAT THEY WILL ALLOW THE PUBLIC TO COMMENT; HOWEVER, EACH PERSON IS LIMITED TO NO MORE THAN (3) THREE MINUTES TO COMMENT AT EACH MEETING.* *TWO OF MORE MEMBERS OF ANY OTHER CITY BOARD, COMMISSION, OR COMMITTEE, WHO ARE NOT MEMBERS OF THE EMPLOYEES' RETIREMENT FUND BOARD MAY ATTEND THIS MEETING AND MAY, AT THAT TIME, DISCUSS MATTERS ON WHICH FORESEEABLE ACTION MAY LATER BE TAKEN BY THEIR BOARD, COMMISSION, OR COMMITTEE.*

AGENDA ITEM 3.A.

CONSENT AGENDA

DECEMBER 10, 2024

ANNUAL MEETING MINUTES

MINUTES
ANNUAL PENSION BOARD MEETING
CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND
TUESDAY, DECEMBER 10, 2024 AT 9:00AM

1. CALL TO ORDER

Chair Shaw called the meeting to order at 9:15a.m.

2. ROLL CALL AND PLEDGE OF ALLEGIANCE

Board Members present: Chair Phyllis Shaw, Secretary Robert Strauss, Jeffrey Greene, David Keller, and George Keller. Also present: Executive Director Christine Bailey; Felicia Ewell of Segal Marco; and Ron Cohen of Lorium Law.

Trustee Barbara Armand was absent.

A. December 10, 2024 Annual Board Meeting Agenda

MOTION made by Trustee D. Keller, seconded by Trustee Greene, to adopt the December 10, 2024 Annual Board Meeting Agenda. In a voice vote of the members present, all members voted in favor. **Motion** passed 5-0.

C. Absent and Excused

MOTION made by Trustee D. Keller, seconded by Trustee G. Keller, to excuse the absence of Trustee Armand at the December 10, 2024 Annual Meeting of the Board of Trustees. In a voice vote of the members present, all members voted in favor. **Motion** passed 5-0.

B. Election of Chair, Vice Chair and Secretary

MOTION made by Trustee D. Keller, seconded by Trustee G. Keller, to nominate Phyllis Shaw to the position of Chair. No other nominations were received. In a voice vote of the members present, all members voted in favor. **Motion** passed 5-0.

MOTION made by Trustee G. Keller, seconded by Trustee Greene, to nominate David Keller to the position of Vice Chair. No other nominations were received. In a voice vote of the members present, all members voted in favor. **Motion** passed 5-0.

MOTION made by Trustee D. Keller, seconded by Trustee Greene, to nominate Robert Strauss to the position of Secretary. No other nominations were received. In a voice vote of the members present, all members voted in favor. **Motion** passed 5-0.

3. CONSENT AGENDA

- A. October 22, 2024 Regular Meeting Minutes
- B. Ratification of Distributions (Contributions and DROP) and Plan Expenses
- C. Approval/Ratification of New Retirements/DROP/Vested/Death Annuities

MOTION made by Trustee Greene, seconded by Trustee D. Keller, to approve Consent Agenda Items 3a, through 3c. In a voice vote of the members present, all members voted in favor. **Motion** passed 5-0.

4. FINANCIAL

A. Financial Reports and Investment Summary

Ms. Bailey provided the Final June, July and August 2024, as well as, the Preliminary October 2024 Financial Report and Investment Summaries. Ms. Bailey also provided the Budget Variance Report as of October 31, 2024.

5. INVESTMENT (Felicia Ewell – Segal Marco)

A. October 2024 Flash Performance Report

Ms. Ewell provided the Board with the Flash Performance Reports for August, September and October 2024. She noted that the Fund's market value of assets as of

October 31, 2024 decreased to \$489.8 million. She also noted that the estimated return for the Fund was down 1.4% net of fees for the month of October 2024.

B. Second Quarter Performance Review

Ms. Ewell reported the Fund's performance for the quarter ended June 30, 2024. She noted that the assets available for investments were \$463.8 million and performance was up 1.3% for the quarter. She also noted that performance was up 12.3% for the fiscal year to date. Ms. Ewell advised that the Fund outperformed many of its peers with similar equity exposures. She noted that the Fund's returns were in the top quartile for the 3-, 5-, and 10-year periods.

C. Investment Policy Statement Update

Ms. Ewell provided the Board with the Investment Policy Statement updated through December 2024. She noted that there are no recommended changes to the policy.

D. 2024 Work Plan

Ms. Ewell reviewed the 2024 Work Plan.

Trustee D. Keller requested that Segal reach out to the investment managers in order to obtain their September performance reports timely. The Board discussed the timing of the final reports and requested that Segal provide best estimates for the lagging investment managers as soon as they are able.

6. **LEGAL (Ron Cohen – Lorium Law)**

A. Legal Update

Mr. Cohen reminded the Board that at the last meeting, Trustees made it clear that employees who were full-time general employees, unless they fit into a particular exception, had to be mandatory members of the Plan. He advised that he had received an inquiry from the Attorney of the Police Pension Plan regarding Mr. Christopher O'Brien. He advised that he had reviewed the employee's Job description and the ordinance, and confirmed that under the law, the employee had to be a member of this Plan.

With regard to the pending lawsuit Virginia Tisdale-Ferguson v. Blanche T. Pressley and the Board of Trustees of the City of Hollywood Employees' Retirement Fund, Mr. Cohen advised that there would be a hearing on December 12, 2024.

Mr. Cohen discussed Gina McDonald and the payment of her outstanding benefits. He advised that her guardian had changed lawyers within the same law firm. He advised that the new attorney advised that the need for the payments were critical and intimated that approximately \$15,000 was needed for urgent services.

MOTION made by Trustee D. Keller, seconded by Trustee Greene, as amended, to authorize up to \$25,000 with final approval by the Chair and the Board Attorney and documentation accounting for the funds advanced. In a voice vote of the members present, all members voted in favor. **Motion** passed 5-0.

B. Marcum LLP Assignment to CBIZ CPAs P.C.

Mr. Cohen advised that Marcum had been bought by CBIZ. He advised that CBIZ had stated that the auditing team would not change and that they requested the Board assign the current Marcum agreement to CBIZ.

MOTION made by Trustee D. Keller, seconded by Trustee Greene, to approve the assignment of the audit engagement from Marcum to CBIZ. In a voice vote of the members present, all members voted in favor. **Motion** passed 5-0.

C. Member DROP Account Distribution and Monthly Benefit Payment

Mr. Cohen advised that George Keller, a member and Trustee, had made a request of the Board. He advised that Trustee G. Keller would be participating in the discussion to represent himself but would not be voting on any motion related to the request, as there was a conflict of interest.

Mr. Cohen reviewed his letter dated December 5, 2024 to the Board regarding George Keller Distribution and his monthly benefit payments including the laws related to the request. He also referenced a letter received from the Counsel to the Hollywood Police Pension Plan. Trustee G. Keller advised that he was not represented by counsel at the time of the meeting. The Board discussed the member's request at length.

Mr. Cohen advised that Trustee Greene notified him during the meeting that he did Trustee G. Keller's Tax Returns and had asked if that might be conflict of interest. Mr. Cohen advised that he would review the circumstances and provide his advice. Trustee Shaw recommended that the item be tabled but requested that the discussion continue.

MOTION made by Trustee Strauss table Agenda Item 6C. The motion was not seconded and was not considered.

Judith Mehrmann provided public comment.

The Item was carried over and the Board requested that a special meeting be set as soon as Mr. Cohen provided information regarding the possible voting conflict.

D. Request for Executive Session to Discuss Pending Litigation

Mr. Cohen requested an Executive Session to discuss the pending lawsuit Virginia Tisdale-Ferguson v. Blanche T. Pressley and the Board of Trustees of the City of Hollywood Employees' Retirement Fund.

7. EXECUTIVE DIRECTOR'S REPORT

A. City Commission Communication

The Board received the City Commission Communication.

B. Pension Office Renovation Update

Ms. Bailey advised that the Pension Offices would be relocated to the New Offices in the first week of January 2025. She advises that there were a few outstanding issues and connections to be addressed before the move.

C. Communications from the Executive Director

- Ms. Bailey advised that three candidates had applied to date for the position of Employee Trustee to the Board and therefore an election would be held in January 2025. She advised that the next date of importance was December 19, 2024 when nominations would close.
- Ms. Bailey requested three corrections to the COHERF 2025 Calendar – the January Regular Board meeting would be held on Tuesday, December 16, 2025, the Offices would be closed on Wednesday, December 24, 2025 and the Offices would be open on Friday, December 26, 2025.

MOTION made by Trustee D. Keller, seconded by Trustee Strauss, to approve the revised COHERF 2025 Calendar and Board Meeting Dates. In a voice vote of the members present, all members voted in favor. **Motion** passed 5-0.

- Ms. Bailey provided the Board with the DROP Participant List.

8. PUBLIC COMMENTS

There were no other public comments.

9. TRUSTEE REPORTS, QUESTIONS AND COMMENTS

There were no Trustee reports, questions or comments.

11. ADJOURNMENT

MOTION made by Trustee D. Keller, seconded by Trustee Greene, to adjourn the meeting. In a voice vote by the members present, **Motion** passed 5-0. The meeting adjourned at 11:50a.m.

Phyllis Shaw, Chair

Date

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME George Keller	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE City of Hollywood Employees' Retirement Fund
MAILING ADDRESS 2600 Hollywood Boulevard	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY Hollywood	COUNTY Broward
DATE ON WHICH VOTE OCCURRED meeting on Dec. 10, 2024	NAME OF POLITICAL SUBDIVISION: Hollywood Fl.
MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTEE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, George Keller, hereby disclose that on December 10, 20 24 :

(a) A measure came or will come before my agency which (check one or more)

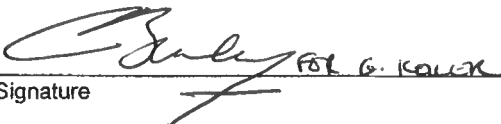
- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____ ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The issue before the Board was whether I can receive certain benefits from the Fund, of which I am a member. I did not vote. I left the dais, stood before the lectern where applicants speak and spoke on the matter.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

December 24, 2024
Date Filed


Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.

Christine Bailey

From: George R Keller Jr <georgekellerjr@gmail.com>
Sent: Tuesday, December 24, 2024 4:39 PM
To: Christine Bailey
Cc: Ron Cohen
Subject: [EXT]Form 8-B
Attachments: New Form 8 B_final.pdf

[You don't often get email from georgekellerjr@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

Christine,

Attached please find my filing Of Form 8-B. It is accurate and factual and represents my statement. I am remote and traveling now and cannot execute with my signature. Please accept, you have my authorization to sign for me this date if needed. I can also execute hard copy later if needed.

George

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sent from my iPhone

AGENDA ITEM 3.B.

CONSENT AGENDA

**RATIFICATION OF DISTRIBUTIONS (CONTRIBUTIONS AND
DROP) AND PLAN EXPENSES**

EMPLOYEES' RETIREMENT FUND
Refunds and DROP Distributions
January 14, 2025 Regular Pension Board Meeting

Name	Refund
<u>Refunds of Contributions</u>	
<u>November 2024 & December 2024</u>	
Amador, Christopher	\$ 2,021.08
Borgesi, Laura	14,803.29
Cimino, Giuseppe	7,284.53
Owens, Tynisha	11,922.97
	\$ 36,031.87
<u>Planned Retirement</u>	
None	\$ -
<u>Partial Lump Sum Distribution</u>	
None	\$ 0.00
<u>DROP Distributions</u>	
<u>November 2024 & December 2024</u>	
Avitable, Doreen (Final)	\$ 13,275.68
Doklean, Dana (Final)	14,913.86
Hitchcock, Kathleen (Final)	18,592.60
Linares, Teresa (Final)	8,361.54
Mincy, Donald (Final)	25,292.76
Montalvan, Mario (Final)	26,747.11
Myrvil, Jean (Final)	23,750.79
Stanley, Angela (Partial)	304,423.21
Thornton, Tamara (Final)	26,760.13
	\$ 462,117.68
TOTAL:	\$ 498,149.55

**CITY OF HOLLYWOOD
EMPLOYEES RETIREMENT FUND
Disbursements Processed
November 1, 2024 to November 30, 2024**

FYE 2024 Expenditures

Segal Advisors Inc (Sept 2024) (\$10,833.33)

FYE 2025 Expenditures

2450 Center Court Condominium (\$3,779.58)
Barbara Armand (IFE BP) (\$1,252.80)
Christine Bailey (IFE BP) (\$861.60)
David Keller (IFE BP) (\$1,228.43)
Eileen A Connelly (CPMS) (\$4,560.00)
FPPTA (Membership) (\$750.00)
Gary Tunnicliffe & Jack Ziegler Llc (\$36,675.00)
Lorium PLLC (Oct 2024) (\$8,400.00)
Phyllis Shaw (IFE BP) (\$1,179.13)
Segal Advisors Inc (Oct 2024) (\$10,833.33)
Segal Advisors Inc (Oct 2024) (\$4,166.67)
Well Fargo CC.(IFE BP) (\$496.64)
Yvonne Narayan (IFE BP) (\$521.42)
(\$74,704.60)

Total (\$85,537.93)

**CITY OF HOLLYWOOD
EMPLOYEES RETIREMENT FUND
Disbursements Processed
December 1, 2024 to December 31, 2024**

FYE 2024 Expenditures

Principal Bank (add'l Q1 2024)	(\$514.88)
Principal Bank (add'l Q2 2024)	(\$508.20)
Principal Bank (add'l Q3 2024)	(\$524.94)
Segal Advisors Inc (2024 Confr. Refund)	\$2,100.00
Segal Advisors Inc (Sept 2024)	(\$4,166.67)
The Northern Trust (Jul - Sep 2024)	(\$7,968.99)
	<u>(\$11,583.68)</u>

FYE 2025 Expenditures

2450 Center Court Condominium	(\$4,448.96)
George Keller Jr	(\$917.69)
IFE BP (2025 Membership)	(\$1,525.00)
Jeffrey H Greene (IFE BP)	(\$1,193.16)
Lorium PLLC (Nov 2024)	(\$3,782.50)
Pension Technology Group Llc	(\$11,000.00)
Segal Advisors Inc (Nov 2024)	(\$10,833.33)
Segal Advisors Inc (Nov 2024)	(\$4,166.67)
Well Fargo CC.(IFE BP)	(\$15,484.63)
Well Fargo CC.(IFE BP)	(\$1,309.68)
	<u>(\$54,661.62)</u>

Capital Expenditure

Pension Technology Group Llc	<u>(\$15,000.00)</u>
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Total	<u><u>(\$81,245.30)</u></u>
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AGENDA ITEM 3.C.

CONSENT AGENDA

APPROVAL/RATIFICATION OF NEW RETIREMENT

/DROP/VESTED/DEATH ANNUITIES

EMPLOYEES' RETIREMENT FUND
New Retirement/DROP/Death/Vested Annuities - Monthly Amounts
January 14, 2025 Regular Pension Board Meeting

<u>New Retirement</u>	Future Benefit	Pension
<u>November 2024 & December 2024</u>		
Burrage, Lori - VESTED 10/28/2024	Normal Annuity	\$ 422.86
Companion, Joseph - VESTED 11/13/2024	10 yrs Certain & Life	\$ 805.97
Delsalle, Darby - VESTED 12/17/2024	Normal Annuity	\$ 1,895.88
Monetti- Vignau, Laura - DROP 10/01/2024	Joint & Half	\$ 6,146.34
Stanley, Angela - DROP 08/01/2020	Joint & Half	\$ 5,042.99

Benefits Stopped

November 2024 & December 2024

Boas, Roger - Died 09/29/2024	Joint & Half	\$ (1,453.90)
Faga, Sylvia - Died 10/13/2024	None	\$ (408.92)
Foege, Ann - Died 10/15/2024	None	\$ (519.65)
Stack, Thomas - Died 10/03/2024	None	\$ (4,749.76)
Wells, James - Died 10/11/2024	None	\$ (1,318.11)
Whitford, Ruth - Died 09/27/2024	None - Beneficiary	\$ (732.59)

Benefits Stopped May 25, 2024- Missing Life Certificates

Anderson, Mark		\$ 914.79
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AGENDA ITEM 4.A.

FINANCIAL

FINANCIAL OPERATIONS AND INVESTMENT SUMMARY

CITY OF HOLLYWOOD
EMPLOYEES' RETIREMENT FUND
FINANCIAL OPERATIONS AND INVESTMENT SUMMARY
PRELIMINARY
DECEMBER 31, 2024

<u>Investment Balances</u>	<u>Market Value</u>	<u>Book Value</u>	<u>Unrealized Gain (Loss)</u>
Balance November 30, 2023	\$ 503,224,753.95	\$ 371,353,753.84	\$ 131,871,000.11
Contributions and Payments:			
City Contributions			
Employees Contributions		\$ 352,320.22	
Pension Disbursement		\$ (3,658,691.16)	
Buliding Purchase			
Furniture			
CPMS project		\$ (15,000.00)	
Administrative Expenses		\$ (58,276.31)	
Net Contributions/Payments		\$ (3,379,647.25)	
Investment Income:			
Dividends & Interest Received			
Gain on Sales (Realized Gains/(Loss))			
Commission Recapture			
Total Invest. Professional Fees		\$ (7,968.99)	
Net Investment Income		\$ (7,968.99)	
Balance December 31, 2024	<u>\$ 503,224,753.95</u>	<u>\$ 367,966,137.60</u>	<u>\$ 135,258,616.35</u>
Increase (Decrease) for the Period	<u>\$ -</u>	<u>\$ (3,387,616.24)</u>	<u>\$ 3,387,616.24</u> <u>\$ 3,387,616.24</u>

Unrealized Gain (Loss) Account
Composition of Increases (Decreases)

Affiliated Development
AG Direct Lending
Angelo-Gordon Realty
Baird Core Plus Bond Fund
BC Partners
Brightwood
Earnest Partners
EnTrust Blue Ocean
Golden Tree
Gold Point
Harbourvest Dover IX49
IFM Global
LM Capital
Loomis Sayles
Marathon
Morgan Stanley
NB Crossroads
NB Private Debt
Neuberger Short Duration
Northern Trust-Extended
Northern Trust
Principal Investors
RBC Emerging Markets
Thompson, Siegel & Walmsley
Wellington International

\$ -

Investment Return

Net Investment Income	\$ (7,968.99)
Increases (Decrease) in Unrealized Gain/Loss	\$ 3,387,616.24
Total Investment Return for the Period	<u>\$ 3,379,647.25</u>

Beginning Market Value	\$ 503,224,753.95
Plus/(Less): Net Contributions/Payment	\$ (3,379,647.25)
Assets Available for Investment	<u>\$ 499,845,106.70</u>

Investment Return as a result of % of Assets Available for Investments	<u>0.68%</u>
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**CITY OF HOLLYWOOD
EMPLOYEES RETIREMENT FUND
Disbursements Processed
December 1, 2024 to December 31, 2024**

FYE 2024 Expenditures

Principal Bank (add'l Q1 2024)	(\$514.88)
Principal Bank (add'l Q2 2024)	(\$508.20)
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FYE 2025 Expenditures

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	<u>(\$54,661.62)</u>

Capital Expenditure

Pension Technology Group Llc	<u>(\$15,000.00)</u>
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Total	<u><u>(\$81,245.30)</u></u>
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	FYE 2025 Expenses	FYE 2025 Disbursements By Type	FYE 2025 Disbursements
September			\$ (372,702.18)
October	\$ (248,051.40)		\$ (248,051.40)
November	\$ (74,704.60)	Building	\$ (85,537.93)
December	\$ (69,661.62)	Furniture	\$ (81,245.30)
		CPMS Project	
		Admin. Expenses	
		Total Invest. Prof. Fees	
	<u>\$ (392,417.62)</u>		<u>\$ (787,536.81)</u>
		<u>\$ (787,536.81)</u>	<u>\$ (787,536.81)</u>

City of Hollywood Employees Retirement Fund
Budget v. Actual
For Year Ending 09/30/2025
Expenses as of 12/31/2024

	2024 Approved Modified Budget (A)	Nov-24	Dec-24	YTD Actual (B)	Remaining Available (A-B)	% Remaining Available (A-B)/(A)
Investment Fees:						
LM Capital	27,500			6,722	20,778	75.56%
Northern Trust	40,000		7,969	16,077	23,923	59.81%
Wellington	415,000			190,858	224,142	54.01%
Custodial Fees	55,200		1,548	14,633	40,567	73.49%
Total Invest. Professional Fees	537,700	-	9,517	228,290	309,410	57.54%
Administrative Fees:						
Consultants	130,000	21,667	10,833	32,500	97,500	75.00%
Accounting	50,000	4,167	8,333	12,500	37,500	75.00%
Audit	23,000			-	23,000	100.00%
GRS-Actuarial and other Fees	100,500			11,340	89,160	88.72%
Medical Svcs (Disability Verification)	4,800			-	4,800	100.00%
Lorium PLLC- Board Attorney	108,000	8,400	3,783	16,255	91,745	84.95%
Total Admin. Professional Fees	416,300	34,233	22,949	72,595	343,705	83%
Personnel Expenses:						
Salaries - Staff	351,100			78,237	272,863	77.72%
Salaries - Temporary	50,000			-	50,000	100.00%
Taxes & Benefits	111,000			29,297	81,703	73.61%
Insurance	184,000			218,395	(34,395)	-18.69%
Total Personnel Expenses	696,100	-	-	325,928	370,172	53%
Other Expenses:						
Continuing Education/Dues	42,000	768	5,793	6,578	35,422	84.34%
Training-Travel, Meals & Lodging	45,000	5,044	11,435	20,003	24,997	55.55%
Participant/Member Education	5,000			-	5,000	100.00%
Equipment Rent	5,000			1,063	3,937	78.74%
Software Maintainance	44,000			-	44,000	100.00%
Printing & Postage Cost	3,000			-	3,000	100.00%
Equipment & Supplies	15,000	88	1,103	1,473	13,527	90.18%
Outside service	3,000	4,951		6,071	(3,071)	-102.37%
Moving Costs	15,000			-	15,000	100.00%
Project Management Services	202,500	36,675	11,000	72,650	129,850	-100.00%
Architecture Services	10,000			-	10,000	-100.00%
Office Condo Utilities	13,200	542	456	1,536	11,664	88.36%
Office Condo Fees and Assessments	41,030	3,238	3,993	10,468	30,562	74.49%
Total Other Expenses:	443,730	51,305	33,779	119,842	323,888	72.99%
Administrative Expenses	1,556,130	85,538	56,728	518,365	1,037,765	66.69%
Capital Expenditures			15,000	40,881		
Contingency Reserves	220,000			-	220,000	
Total Expenditure FYE 2025	2,313,830	85,538	81,245	787,536	1,567,175	67.73%
FYE 2024 Accrued Expenses Paid 2025		(10,833)	(11,584)	(395,119)	395,119	
Total Cost FYE 2025	2,313,830	74,705	69,662	392,417	1,962,294	

AGENDA ITEM 5.A.

INVESTMENT

UPDATE IN SEGAL MARCO

(NO BACKUP FOR THIS SECTION)

AGENDA ITEM 5.B.

INVESTMENT

NOVEMBER 2024

FLASH PERFORMANCE REPORT

(UNDER SEPARATE COVER)

AGENDA ITEM 5.C.

INVESTMENT

THIRD QUARTER PERFORMANCE REPORT

(UNDER SEPARATE COVER)

AGENDA ITEM 6.A.

LEGAL

LEGAL UPDATE

(NO BACKUP FOR THIS SECTION)

AGENDA ITEM 6.B.

LEGAL

**MEMBER DROP ACCOUNT DISTRIBUTION
AND MONTHLY BENEFIT PAYMENTS**



101 N.E. THIRD AVENUE, SUITE 1800
FORT LAUDERDALE, FLORIDA 33301
(954) 462-8000
www.loriumlaw.com

December 5, 2024

VIA ELECTRONIC MAIL

Chair and Members of the Board of Trustees
City of Hollywood Employees' Retirement Fund
2600 Hollywood Blvd.
Annex Building, 2nd Floor

Re: George Keller Distribution

Dear Chair and Members of the Board,

Recently, a proposed Plan change on DROP distributions was considered and rejected by the membership. Following that vote, I received a call from an attorney (Robert Klausner) on behalf of Mr. Keller. I explained the background, and explained that the membership had rejected a plan change concerning Charter employees' DROP distributions. Mr. Klausner stated that he believed Mr. Keller could receive his normal retirement benefit, that is, his monthly pension, while still working. Since that time, I have discussed the matter with both Mr. Keller and Mr. Klausner, and knowing that it will come before the Board for a decision, I thought it would be useful for you to set forth the issues involved and the law on this matter.

This subject is complicated, and I understand that this letter is long. Unfortunately, I think that is necessary. To assist you, I have prepared the following **Executive Summary**.

1. There are provisions of the Plan that require interpretation, and the Board of Trustees has the responsibility to do that. In interpreting the Plan, the Board may conclude, but is not required to conclude, that if Mr. Keller had a separation of employment, he can receive his normal retirement benefit. Under this interpretation, the separation from employment need not be a bona fide separation, which is a separation without a

prearrangement for Mr. Keller to return to work with the City.
The separation could be short, and prearranged.

2. Whether there was a separation from service is a fact specific inquiry that you may make after hearing all the facts and circumstances concerning Mr. Keller's hiring as City Manager.

There are a number of different rules that regulate when a pension plan can lawfully make a distribution to a member. Some of those rules are important here. I will first discuss those general rules. Then, I will discuss certain exceptions, and then discuss how the rules and exceptions may be applicable here.

General Rules

It is important to start with the general rule. Treas. Reg. §1.401-1(b)(1)(i). provides in part:

General rules. (1)(i)pension plan within the meaning of section 401(a) is a plan established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to his employees over a period of years, usually for life, *after retirement*. (italics added).

Thus, generally, to maintain its tax qualified status (our plan is tax qualified, and it is important that the plan remain so), a plan must generally provide for payments *after retirement*.

So, we must consider when does retirement occur? As the IRS has written in Private Letter Ruling ("PLR") 201147038:

Employees who "retire" on one day in order to qualify for a benefit under the Plan, with the explicit understanding between the employee and the employer *that they are not separating from service with the employer, are not legitimately retired*. Accordingly, because these employees would not actually separate from service and cease performing services for the employer when they

“retire,” these “retirements” would not constitute a legitimate basis to allow participants to qualify for early retirement benefits (which are then immediately suspended). *Such “retirements” will violate section 401(a) of the Code and result in disqualification of the Plan under section 401(a) of the Code.*

(Italics added).

In addition to possible tax disqualification for the plan, there can be tax penalties for individuals who take an early distribution, before age 59½. Mr. Keller is over 59½, so that is not a concern in this particular case.

The IRS adheres to the position that unless a plan allows for an in-service distribution, there must be a bona fide separation of employment in order for an individual to commence their retirement benefit. A bona fide separation is a separation from employment without a prearrangement for the employee to continue working for the employer.

An Important Exception

IRS Code Section 401(a)(36) provides an important exception that allows certain persons to commence their retirement benefits without separating from service (*i.e.* without retiring):

(36) Distributions during working retirement.—

(A) In general.—

A trust forming part of a pension plan shall not be treated as failing to constitute a qualified trust under this section solely because the plan provides that a distribution may be made from such trust to an employee who has attained age 59½ and who is not separated from employment at the time of such distribution.

Importantly, Code Section 401(a)(36) also has been expanded to allow for an in-service distribution at normal retirement age under the plan (the age at which the member would be eligible to receive an unreduced benefit).

This means that a person can receive an in-service distribution, while still working for the employer in an uninterrupted fashion, but only if the plan provides that a distribution may be made from such trust to an employee who has attained normal retirement age, age 59½ or some later age and who is not separated from employment at the time of such distribution. In other words, there can be an in-service distribution (a distribution to a person who has not retired), if the person is over the required age and the *plan so provides*.

Now, we must examine our plan and determine if it provides that benefits can be paid while a person is still working. As we previously have discussed, a Plan can allow for an in-service distribution from a DROP account, for the normal retirement benefit, for both, or for neither. I will first discuss the normal retirement benefit. This requires consideration of 33.025 (II) which provides that:

(II) *Reemployment after retirement.* To the extent permitted under the Internal Revenue Code with regard to in-service distributions, the benefits otherwise payable to a retiree who has retired under the normal retirement provisions of this plan and attained age 62 shall not be discontinued if such retiree is subsequently reemployed by the city.

This raises a question of plan interpretation as to whether this provision ever permits a normal retirement benefit to be distributed without a bona fide separation of employment. If the answer is yes, then we must examine the circumstances under which it is allowed.

This provision was added in 2019 in the tax qualification ordinance. While there were some required provisions in that ordinance, this provision was not required. The Board considered this provision, and decided to recommend to the City Commission the passage of this ordinance, but without the inclusion of (II). I attended the City Commission meeting in January 2019 and spoke against the inclusion of (II). Mr. Weiner did as well, on behalf of AFSCME. There were a number of questions, and a lively discussion. The Commission passed the ordinance on first reading, and asked the City and Union to try to work out their differences. On second reading, in March 2019 Mr. Weiner told the Commission that the differences were resolved and it passed quickly.

Please note that the reemployment after retirement provision does not explicitly use the phrase “bona fide separation”. In interpreting a plan document as to whether it allows a benefit to be paid without a bona fide separation of employment, a plan can either implicitly or explicitly permit it. While our plan does not explicitly permit it, we must still examine the meaning of this section to determine if it implicitly permits it.

There must have been a reason for the addition of this provision. The law on interpreting statutes is to determine legislative intent. As the Supreme Court has ruled "legislative intent" is discerned primarily from the text of the statute. Schoeff v. R.J. Reynolds Tobacco Co., 232 So. 3d 294, (Fla. 2017). By leaving out the requirement that there should be a bona fide separation, it can reasonably mean that a bona fide separation is not required for individuals who are age 62 or older. It is only where the statutory language is unclear or ambiguous, that Courts apply rules of statutory interpretation to determine legislative intent.

It may be, however, that this provision was added to permit someone who retires with a bona fide separation of employment, and then comes back to work, to continue to receive their benefit. There are some plans that provide that if you leave work even with a bona fide separation, and come back to work, the benefit is suspended. Under the Tax Code, a person can retire without a prearrangement, and then return to work sometime later and still receive the benefit. But if a plan does not contain a suspension of benefit clause, it can mean that the benefit is not suspended. Since our plan does not contain a suspension of benefit clause, this provision may not have been needed in order to mean that the benefits were not suspended. The parties may not have been aware of this. This is a difficult area (as you can see) and there was a concern in the Florida public pension community about payment of benefits to those who were retired, because a South Florida plan had confronted significant expenses in connection with in-service distributions.

This provision may mean that the plan is allowing the benefit to be paid to someone who has had a separation of employment, but not a bona fide separation. The Plan says, *“Reemployment after retirement. To the extent permitted under the Internal Revenue Code with regard to in-service distributions, the benefits otherwise payable to a retiree who has retired under the normal retirement provisions of this plan and attained age 62 shall not be discontinued if such retiree is subsequently reemployed by the city.”* (Italics

added). The title is “Reemployment after retirement.” It also speaks about benefits not being discontinued, if the retiree is rehired. Both of these phrases may indicate that there had to be some separation of service, even if only at least a nominal separation. Remember, the IRS holds that to retire the employee must actually separate from service and cease performing services for the employer. So, aside from the fact that the plan provision is limited to individuals who have attained age 62, it may require a separation, but it can be interpreted to mean that it does not require a bona fide separation, just a separation.

If the Board accepts that interpretation, it must still find that there was a separation of employment, even if it was not bona fide.

Separation of Employment

In this section, we will discuss the factors that you can consider when determining if Mr. Keller separated from service. It is often said that in Florida, when a person enters DROP, he or she is retired. This notion apparently has its basis in Chapters 175 and 185, applicable to Fire and Police Plans, respectively. §175.32 states, its definition section:

“Deferred Retirement Option Plan” or “DROP” means a local law plan retirement option in which a firefighter may elect to participate. *A firefighter may retire for all purposes of the plan and defer receipt of retirement benefits into a DROP account while continuing employment with his or her employer. However, a firefighter who enters the DROP and who is otherwise eligible to participate may not be precluded from participation or continued participation in a supplemental plan in existence on, or created after, March 12, 1999.*

Chapter 185.02 contains a similar provision. There is not a similar statutory provision that governs general employee plans. Further, in a case involving the City of Hollywood Police Officers’ Retirement System, [Simcox v. City of Hollywood Police Officers' Ret. Sys., 988 So. 2d 731at 734-5 \(Fla. 4th DCA 2008\)](#), the Court held that this definition provision did not change the employment status of a DROP member. [Simcox](#) was a forfeiture case in which a police officer claimed that since forfeiture required that the crime be

committed prior to retirement, and he was in DROP, he had not committed the offense prior to retirement. The Court disagreed and said:

We conclude that "retirement" for the purpose of DROP is different and separate from "retirement" as used in section 112.3173. Section 185.02(6), defines DROP retirement solely for the "purposes of the plan." On the other hand, section 112.3173 [the forfeiture statute] employs the common meaning of the word "retirement." That definition is usually associated with an employee's voluntary termination of his own employment or career. BLACK'S LAW DICTIONARY (8th ed. 2004); *see also Nehme v. Smithkline Beecham Clinical Labs., Inc.*, 863 So. 2d 201, 205 (Fla. 2003) ("When necessary, the plain and ordinary meaning of words can be ascertained by reference to a dictionary."). Here, Simcox remained employed as a police officer until he officially resigned in February 22, 2007, months after he committed the federal felony. He therefore was not retired for purposes of section 112.3173.

Additionally, in our Plan, unlike many others, a person can participate in DROP and at the conclusion of their DROP period remain employed. Our Plan does contain the following definition of Retiree: "RETIREE Any member who receives benefits under the provisions of this plan, including DROP participants." This might indicate that a DROP member is a retiree. However, there is also a definition of employee: "EMPLOYEE Any person employed by the city on a full-time basis whose services are compensated in whole or in part by the city, with or without grant funds, including all employees hired on or after the effective date of this subchapter whose services are compensated on a contractual basis..." It may be that, like in Simcox, for all purposes other than the calculation of their retirement benefit, a DROP participant still is an employee. The IRS does not consider entry into DROP to be retirement. Instead, the IRS recognizes that the member is freezing their retirement benefit when they enter DROP and are accruing an additional benefit while participating in DROP. Technical Advice Memorandum 053107A; Technical Advice Memorandum #071907.

As to the circumstances surrounding Mr. Keller's appointment as City Manager, Mr. Keller told me that either he or his representative will speak on his behalf. Here, I will share with you documents and facts that Mr. Keller has shared with me, mostly without comment. I believe that it is appropriate for me to advise you on the law concerning this issue, but there is a factual determination that must be made, and that is entirely your province. I am not a judge of the facts. As Trustees, each of you has that authority. I think it best that you hear from Mr. Keller or from someone on his behalf before I comment.

I attach Mr. Keller's Employment Agreement, and the City Commission Resolution approving it. Note that it says in Paragraph 1 that he is employed pursuant to Article VI, Section 6.02 of the City Charter. Section 6.02 provides in part that the City Manager is appointed by the City Commission, and shall serve at the will of the Commission. As City Manager, the Employment Agreement says that he is an employee of the City of Hollywood. Mr. Keller points out that he went from being a civil service employee to an employee who serves at the will of the City Commission. Mr. Keller has also furnished me with a screen shot of what is said to be from Oracle. It shows his last day as Assistant City Manager as 3/30/23 and that he started work as City Manager the next day. Again, it is for you to determine whether the plan requires that the separation from employment be bona fide or for any particular length of time. I am also furnishing you with his Amended Employment Agreement.

Further, Mr. Keller also has furnished me with Earnings Statements. They are attached, and I believe that many of you will be more adept at reading them than I am. His Employment Agreement provides that the Agreement will be effective on the date of execution by both parties, which appears to be March 28, 2023. But Paragraph 1 states that it is effective March 31. Mr. Keller has also furnished me with his oath of office, which shows he took that written oath was taken on May 9, 2023. As I said, Mr. Keller or his representative will make a presentation as to why he believes that these documents, and others which might be submitted, and the facts and circumstances surrounding his becoming City Manager demonstrate that he has a separation from employment.

As to DROP, I thought that matter was resolved until very recently, when I was told it was still to be considered. Regarding DROP, Sec. 33.025 of our plan provides:

(H)(8) Upon termination of a member's participation in the DROP and separation from city employment, the DROP account balance credited to the member shall be distributed to the member under one or a combination of the following options selected by the member in accordance with procedures established by the Board...

Also, (H)(11) provides:

(11) A DROP participant may terminate DROP participation and resign from city employment prior to the end of the maximum DROP period. Upon termination of DROP participation and separation from city employment, a member shall receive a distribution of his/her DROP account balance in accordance with division (H)(8) above, and regular monthly service retirement benefit payments shall thereafter commence. If a DROP participant does not separate from city employment at the end of the maximum DROP period, the DROP account will not be credited with additional interest and the member's monthly retirement benefit will not be paid until the member separates from city employment.

The DROP distribution provisions that existed before the vote and which still exists require a separation from City employment, and, if before the end of the maximum DROP participation period, a resignation. Further, it also provides that when the DROP is distributed, then monthly pension benefits will commence.

The language concerning DROP that was voted on and rejected by ballot would have allowed the Charter employees, to the extent permitted by the Internal Revenue Code and applicable regulations, to receive a DROP distribution at the conclusion of their maximum participation in DROP while still holding their position, if they reached normal retirement age and were at

least 59½. It did not directly change the language that the DROP can only be distributed upon termination, but clearly allowed for an in-service distribution from DROP for the Charter Employees. Note that it starts with the language “notwithstanding any provision in the plan to the contrary,” the City Manager could receive a DROP distribution while still working. The importance of the language “Notwithstanding any provision of the plan to the contrary”, means that the Manager could access his DROP money, even if the Plan otherwise says he cannot.

Will Your Decision Set a Precedent?

Trustees often ask if their decision in a particular matter will set a precedent. As to the first question presented, which is whether the language of the Plan in Section (II), the Reemployment after Retirement Section, requires a bona fide separation of employment. I believe that your answer to that question will be precedent setting. If you decide it does, it must mean the same for all other persons. If you decide it does not, but only requires a nominal separation of employment and not a bona fide separation, that, too, will be precedent setting. Separately, if you determine that it only requires a nominal separation of employment, you will be asked to decide whether the facts and circumstances here constitute that Mr. Keller had a separation of employment. In my view, that decision will not be precedent setting. It is an inquiry specific to the facts and circumstances involving Mr. Keller, and if you have a matter involving a different person, and the facts differ, you will have to look at those facts and determine if there was a separation.

I also want to address whether you will be faced with a mass of people who claim that they have separated. Certainly, this may be true for people who have reached age 62. As a result, I think that will likely require some sort of personnel action, maybe even cooperation, on behalf of the City. Also, if a person is under age 59 ½ and has not had a bona fide separation, it would mean that that there would be an additional 10% early distribution tax penalty to be borne by the participant. This penalty would continue until the person ultimately has a bona separation from service or reaches age 59 ½ (whichever occurs first).

I do want to note that there is support for the proposition that a change in roles does not constitute a separation from service. In Ridenour v. United

States, 3 Cl. CT 128 (1983), the Court of Claims discussed the meaning of separation of employment in the concept of the taxability of a retirement distribution. That case did not involve the qualification of a plan, but only whether a distribution would be taxable to the distributee. In Ridenour, a person was in a retirement plan for employees, and when he was promoted to partner in an accounting firm, he had to exit the employees' retirement plan, which required that the balance be distributed to him. The taxpayer claimed his lump sum distribution was entitled to favorable tax treatment under a particular Section of the Code because it was a lump sum distribution after separation. The Court disagreed. In its ruling, the Court favorably discussed that the IRS has a long-standing interpretation of the phrase, "separation of employment" and said it excludes:

situations in which an employee continues to render services to an employer. In interpreting this phrase, the IRS has consistently focused on the extent to which the obligation to provide services continues, despite changes in the employment relationship. The IRS has ruled that discontinuing of compensation, *per se*, to an employee officer of a corporation, who continues to provide services, does not constitute a "separation from the service," since "there must be a complete severance of all relationships between the employer and employee." Rev. Rul. 57-115, 1957-1 C.B. 160, 161.

As I said, this was a case involving taxability of a distribution to a member. It does not involve the qualification of a plan. The test that the IRS uses as to separation from service for individual taxation purposes is viewed as more stringent than the test used as for qualification of the plan. This may mean that certain people will not seek their normal retirement benefit, if they are not yet age 59 ½. Regardless, you can consider Ridenour to support that a change in job duties or title does not, in and of itself, result in a separation from service.

Chair and Members of the Board of Trustees
December 5, 2024
Page 12

Yours truly,
LORIUM LAW

Ronald Cohen

Ronald J. Cohen
rcohen@loriumlaw.com



Writer's email: bob@robertdklausner.com

December 9, 2024

Board of Trustees
City of Hollywood Employees Retirement System
2600 Hollywood Blvd.
Hollywood, FL 33020

Re: George Keller

Dear Trustees:

I have reviewed Mr. Cohen's thoughtful analysis of Mr. Keller's request to receive his monthly annuity while still serving as city manager, following the completion of his DROP participation. After reading the authorities cited in Mr. Cohen's opinion, and my own research, which is outlined below, it is my unequivocal view that Mr. Keller is entitled to receive his pension while remaining as city manager.

The Internal Revenue Code states in Section 401(a)(36) that a plan does not fail to remain qualified by allowing an in-service distribution after age 59 ½ (formerly age 62). Nothing in that section requires a separation from service. The Hollywood General Employees Retirement Plan (City Code Section 33.025, *et seq*) allows retirees to receive an in-service distribution beginning at age 62. Specifically, 33.025(II) states:

Reemployment after retirement. To the extent permitted under the Internal Revenue Code with regard to in-service distributions, the benefits otherwise payable to a retiree who has retired under the normal retirement provisions of this plan and attained age 62 shall not be discontinued if such retiree is subsequently reemployed by the city.

7080 NORTHWEST 4TH STREET, PLANTATION, FLORIDA 33317
PHONE: (954) 916-1202 – FAX: (954) 916-1232
www.klausnerkaufman.com

It is significant that Mr. Keller entered DROP in December 2019. Under the express terms of the City Code, upon entering DROP, a member of the plan becomes a retiree. 33.025(B) states:

RETIREE. Any member who receives benefits under the provisions of this plan, including DROP participants.

When Mr. Keller was appointed City Manager, he was required to resign and relinquish his civil service rights, going from an employee to a City Charter officer, serving at the pleasure of the City Commission. See, Hollywood City Charter, Article VI. In making that transition, Mr. Keller was required, the same as any other retiring employee, to “cash out” all accumulated service. As Mr. Keller was already a retiree upon entry into DROP, he cannot be deemed to have “retired” with a pre-determined rehire.

The fact that Mr. Keller went from being an employee to an officer must take into account for the principal difference between the “officer” and “Employees.” For more than a century Florida courts have held that an office implies a delegation of the sovereign power of the state while an employee does not have any prescribed independent authority of a governmental nature. *State v. Sheats*, 78 Fla. 583, 83 So. 508 (1919), cited with approval in *Demings v. Orange County Citizens Review Board*, 15 So. 3d 605 (Fla. 5th DCA 2009).

I would also note that *Simcox v. City of Hollywood Police Officers' Retirement System*, 988 So. 2d 731 (Fla 4th DCA 2008) does not mandate a contrary result to relief requested. *Simcox* simply recognized that inherent in every public officer or employee's pension “contract” is a requirement that while employed, whether in DROP or not, that the officer or employee provide honorable and honest service. Officer Simcox broke that obligation and as a result his conditional pension contract could never mature. While Mr. Keller is in DROP, the same rule would apply to him. Once DROP ends, however, the member is retired for the purposes of the state law on pension forfeiture. Even post-retirement, if a public officer or employee is later convicted of a crime which occurred while employed, forfeiture would apply. *Hames v. City of Miami Firefighters' and Police Officers' Trust*, 980 So. 2d 1112 (Fla. 3d DCA 2008).

All of that is irrelevant, however, because this plan allows in-service distribution, and the member has attained age 62. Just as the Internal Revenue Code does not require a separation from service after age 62, Hollywood's plan does not require a separation after age 62. The IRS website summarizing the dizzying array of plan qualification requirements specifically says:

A pension plan may pay benefits to a participant age 62 or older even if the participant has not separated from employment. The rules regarding a plan's youngest permissible normal retirement age have a safe harbor of age 62.

<https://www.irs.gov/retirement-plans/retirement-topics-significant-ages-for-retirement-plan-participants#:~:text=Distributions%20from%20qualified%20retirement%20plans,once%20the%20recipient%20turns%2059%C2%BD.&text=A%20pension%20plan%20may%20pay,has%20not%20separated%20from%20employment.>

The plain import of 33.025(II) was to allow the employment of retirees and allow them to keep their monthly retirement annuities. Such persons cannot rejoin the plan and by entering DROP in 2019, long before becoming city manager, Mr. Keller's final average compensation was fixed and does not reflect his higher salary as manager. His receipt of his annuity (and his DROP) while remaining as city manager has no actuarial impact of the retirement plan and does not affect the city's contribution rate.

Long-standing Florida law is unequivocal that pension laws should be liberally construed in favor of the intended recipients. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013); *Board of Trustees v. Town of Lake Park*, 966 So. 2d 448 (Fla. 4th DCA 2007); *Greene v. Gray*, 87 So. 2d 504 (Fla. 1956).

In my view, there is no legal or factual basis to deny Mr. Keller's request.

Respectfully,

/s/ Robert D. Klausner
ROBERT D. KLAUSNER

RDK/yv

AGENDA ITEM 6.C.

LEGAL

REQUEST FOR EXECUTIVE SESSION

TO DISCUSS PENDING LITIGATION

(NO BACKUP FOR THIS SECTION)

AGENDA ITEM 7.A.
EXECUTIVE DIRECTOR'S REPORT
CITY COMMISSION COMMUNICATION



CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND

2600 Hollywood Blvd. • City Hall Annex Building, 2ND Floor, Room 20 • Hollywood, FL 33020
(954) 921-3333 • (954) 921-3332 Fax • www.hollywoodpension.com

CITY COMMISSION COMMUNICATION January 2025

The following information is provided to the City Commission for informational purposes only.

BOARD OF TRUSTEES

Phyllis Shaw – Chair
David Keller, Vice Chair

Robert Strauss – Secretary
Barbara Armand

Jeffrey Greene
George Keller

*One citizen member position on the Board of Trustees is vacant. This member is appointed by and serves at the pleasure of the City Commission; must be a resident of the City; and cannot be identified with the City government.

Six Trustees attended the October 2024 Meeting of the Board of Trustees.

ITEMS OF INTEREST TO THE CITY COMMISSION

- The Pension Office has relocated from the Annex Building to 2450 Hollywood Boulevard, Room 204.
- The estimated value of the Fund's assets available for investments on November 30, 2024 was \$XXX.X million, up/down X.X% net of fees for the month of November 2024, and up/down X.X% net of fees for the fiscal year to date.
- The Funded Ratio (the value of the actuarial assets divided by the actuarial accrued liability) was 64.5% as of October 1, 2023, up from 64.4% as of October 1, 2022, and up from 64.1% as of October 1, 2021.
- The Fund is involved in a lawsuit related to the survivor benefit of a deceased retiree, in which more than one party claimed the benefit. The Fund has previously prevailed in a Writ of Certiorari. The party that lost again filed suit on May 25, 2023 and the litigation is ongoing.

UPCOMING PENSION EDUCATIONAL OPPORTUNITIES FOR CITY COMMISSION

- Kored Global Summit
January 21 – 24, 2025
Marriott, Key West
- FPPTA Trustee School
January 26 - 29, 2025
Renaissance, Orlando

MEETING SCHEDULE 2024

All Commissioners are invited to attend.

<u>Dates</u>	<u>Time</u>	<u>Location</u>
February 25, 2025	9:00am-12:00pm	Pension Office, 2450 Hollywood Boulevard, Room 209
March 25, 2025	9:00am-12:00pm	Pension Office, 2450 Hollywood Boulevard, Room 209
April 22, 2025	9:00am-12:00pm	Pension Office, 2450 Hollywood Boulevard, Room 209
May 20, 2025	9:00am-12:00pm	Pension Office, 2450 Hollywood Boulevard, Room 209
June 17, 2025	9:00am-12:00pm	Pension Office, 2450 Hollywood Boulevard, Room 209
July 22, 2025	9:00am-12:00pm	Pension Office, 2450 Hollywood Boulevard, Room 209
August 26, 2025	9:00am-12:00pm	Pension Office, 2450 Hollywood Boulevard, Room 209
September 16, 2025	9:00am-12:00pm	Pension Office, 2450 Hollywood Boulevard, Room 209
October 21, 2025	9:00am-12:00pm	Pension Office, 2450 Hollywood Boulevard, Room 209
December 16, 2025	9:00am-12:00pm	Pension Office, 2450 Hollywood Boulevard, Room 209

AGENDA ITEM 7.B.
EXECUTIVE DIRECTOR'S REPORT
PENSION OFFICE RENOVATION
(NO BACKUP FOR THIS SECTION)

AGENDA ITEM 7.C.

EXECUTIVE DIRECTOR'S REPORT

COMMUNICATIONS FROM THE EXECUTIVE DIRECTOR



Communications – January 14, 2025

- 2025 Employee Trustee Election
- DROP Participant List

CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND

DROP

January 2025 Regular Pension Board Meeting

	Name		DROP Start Date	DROP End Date	Payroll Reports Received
1	Keller	George	January 1, 2020	December 31, 2024	Yes
2	Hogarth	Delroy	July 1, 2020	June 30, 2025	Yes
3	Seidl	Luanne	July 1, 2020	June 30, 2025	Yes
4	Lopez	Sergio	August 1, 2020	July 31, 2025	Yes
5	Manimala	Jacob	August 1, 2020	July 31, 2025	Yes
6	Bailey	Lorna	October 1, 2020	September 30, 2025	Yes
7	Bently	Michael	October 1, 2020	September 30, 2025	Yes
8	Perrin	Edward	October 1, 2020	September 30, 2025	Yes
9	Kalil-Cobos	Yvonne	December 1, 2020	November 30, 2025	Yes
10	Wilson	Henry	January 1, 2021	December 31, 2025	Yes
11	Carter	Michelle	March 1, 2021	February 28, 2026	Yes
12	Johns	Mary	April 1, 2021	March 31, 2026	Yes
13	Bennett	Lisa	April 1, 2021	March 31, 2026	Yes
14	Maldonado-Juriga	Yolanda	June 1, 2021	May 31, 2026	Yes
15	Castillo	Jamie	June 1, 2021	May 31, 2026	Yes
16	Tozzi	Donna	August 1, 2021	July 31, 2026	Yes
17	Sanchez	Pamela	September 1, 2021	August 31, 2026	Yes
18	Caraballo	Luis	December 1, 2021	November 30, 2026	Yes
19	Batista	Francisco	January 1, 2022	December 31, 2026	Yes
20	Smith	Lisa	March 1, 2022	February 28, 2027	Yes
21	Fiorillo	Richard	March 1, 2022	February 28, 2027	Yes
22	Ramos	Edgar	May 1, 2022	April 30, 2027	Yes
23	DeRosa	Anthony	May 1, 2022	April 30, 2027	Yes
24	Cerny	Patricia	May 1, 2022	March 12, 2027	Yes
25	Schiff	Christine	June 1, 2022	May 31, 2027	Yes
26	Clift	William	June 1, 2022	May 31, 2027	Yes
27	Russ	Lemmie	June 1, 2022	May 31, 2027	Yes
28	Irizarry Figueroa	Fernando	June 1, 2022	May 31, 2027	Yes
29	Andrews	Henry	July 1, 2022	June 30, 2027	Yes
30	Kimble	LaShanda	August 1, 2022	July 31, 2027	Yes
31	Saintange	Carmen	August 1, 2022	July 31, 2027	Yes
32	Vazquez	David	August 1, 2022	July 31, 2027	Yes
33	Greene	Charmaine	September 1, 2022	August 31, 2027	Yes
34	Davis	Curtis	September 1, 2022	August 31, 2027	Yes
35	Kis	Laslo	September 1, 2022	August 31, 2027	Yes
36	Estevez	Andrew	November 1, 2022	October 31, 2027	Yes
37	Graves	Kimberly	January 1, 2023	December 31, 2027	Yes

CITY OF HOLLYWOOD EMPLOYEES' RETIREMENT FUND

DROP

January 2025 Regular Pension Board Meeting

	Name		DROP Start Date	DROP End Date	Payroll Reports Received
38	Morris	Travis	January 1, 2023	December 31, 2027	Yes
39	Cairns	William	January 1, 2023	December 31, 2027	Yes
40	Sheinfeld	Scott	February 1, 2023	January 31, 2028	Yes
41	Sabillon	Karrie	March 1, 2023	February 28, 2028	Yes
42	Senecharles	Francis	May 1, 2023	April 30, 2028	Yes
43	Di Sciascio	Alex	May 1, 2023	April 30, 2028	Yes
44	Wharton	Michael	June 1, 2023	May 31, 2028	Yes
45	Isaac	Septimus	June 1, 2023	May 31, 2028	Yes
46	Leo	Justin	June 1, 2023	May 31, 2028	Yes
47	Rivers	Miguel	June 1, 2023	May 31, 2028	Yes
48	Caruso	Nancy	August 1, 2023	July 31, 2028	Yes
49	Kiriazis	Dan	November 1, 2023	October 31, 2028	Yes
50	Randazzo	John	November 1, 2023	October 31, 2028	Yes
51	Gardner	Irish	November 1, 2023	July 31, 2028	Yes
52	Parma	Ganga	December 1, 2023	June 30, 2028	Yes
53	Lahoud	Cheryl	January 1, 2024	December 5, 2026	Yes
54	Beech	Alan	January 1, 2024	December 31, 2028	Yes
55	Carter	Ronnie	January 1, 2024	December 31, 2028	Yes
56	Vera	Omar	February 1, 2024	January 31, 2029	Yes
57	Valenzuela	Mari	April 1, 2024	March 31, 2029	Yes
58	Jackson	Sandie	May 1, 2024	April 30, 2029	Yes
59	Jones	Clinton	May 1, 2024	April 30, 2029	Yes
60	Armand	Barbara	June 1, 2024	May 31, 2029	Yes
61	Lopez	Margaret	August 1, 2024	July 31, 2029	Yes
62	Williams	Genise	September 1, 2024	August 31, 2029	Yes
63	Youmans	Heather	December 1, 2024	November 30, 2029	Yes
64	Caseus	Florence	January 1, 2025	December 31, 2029	

AGENDA ITEM 8

PUBLIC COMMENT

(NO BACKUP FOR THIS SECTION)

AGENDA ITEM 9
TRUSTEE REPORTS, QUESTIONS AND
COMMENTS

(NO BACKUP FOR THIS SECTION)

AGENDA ITEM 10

ADJOURNMENT

(NO BACKUP FOR THIS SECTION)