

**ORDINANCE NO. 770-B**

**AN ORDINANCE OF CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, AMENDING THE CITY OF BROOKSVILLE POLICE OFFICERS RETIREMENT TRUST FUND ADOPTED PURSUANT TO ORDINANCE NO. 770, AS SUBSEQUENTLY AMENDED; AMENDING ARTICLE 2.23, SALARY/COMPENSATION; ADOPTING AN AMENDED AND RESTATED PLAN DOCUMENT; PROVIDING FOR CONFLICT, REPEAL AND SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Brooksville has an established Retirement Plan and Trust for the Police Officers of the City of Brooksville; and

**WHEREAS**, the City Council and the Trustees of the City of Brooksville Police Officers Pension Plan desire to amend, clarify and restate the provisions of the Retirement Plan and Trust for the Police Officers of the City of Brooksville.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF BROOKSVILLE, FLORIDA, that:**

**SECTION 1. AMENDED PROVISIONS.** The City of Brooksville Retirement Plan and Trust for the Police Officers, adopted pursuant to Ordinance No. 770, is hereby amended as follows:

**Article 2.23 Salary/Compensation.**

“Compensation” or “salary” means the total cash remuneration paid to a Police Officer for services rendered including overtime payments which are limited to not more than 300 hours per calendar year, but not including any payments for extra duty or a special detail work performed on behalf of a second party employer. No hours of unused sick or vacation leave which are earned on and after July 1, 2011 will be included in the final average salary calculation; any unused sick and vacation leave earned before July 1, 2011 which are paid after that date may be included in the final average salary calculation. For sick and vacation leave earned before July 1, 2011, the 300 hour limitation on overtime shall not apply in the event that the municipality declares an emergency (for example, hurricane, tornado, tropical storm or other natural or man-made emergency); after July 1, 2011, the 300 hour overtime limitation is applied in all cases. The changes to the definition of “Salary/Compensation” effective July 1, 2011 are not applicable to any participants who are eligible for normal retirement on July 1, 2011. Compensation in excess of the limitations set forth in Section 401(a)(17) of the Code shall not be included as salary/compensation for purposes of the Plan. Beginning with salary/compensation after December 31, 2008, and pursuant to Internal Revenue Code Section 414(u)(7), the definition of salary/compensation includes amounts paid by the City as differential wages to members who are absent from employment while in qualified military service.

**SECTION 2. AMENDED AND RESTATED PLAN.** Ordinance No. 770 of the City of Brooksville, as amended by SECTION 1 of this Ordinance, is hereby amended and restated as set forth in the document attached as Exhibit A entitled “Brooksville Police Pension Fund Pension Plan Document.”

**SECTION 3. CONFLICT AND REPEALER.** All Ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 4. SEVERABILITY.** If any article, section, subsection, sentence, clause or phrase of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate and distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its adoption.

**CITY OF BROOKSVILLE**  
By: \_\_\_\_\_  
Joseph E. Johnston, III, Mayor

Attest: \_\_\_\_\_  
Janice L. Peters, CMC, City Clerk

PASSED on First Reading December 5, 2011  
NOTICE Published on December 16, 2011  
PASSED on Second & Final Reading December 19, 2011

APPROVED AS TO FORM FOR THE RELIANCE  
OF THE CITY OF BROOKSVILLE ONLY:

VOTE OF COUNCIL:

Bernardini	<u>AYE</u>
Bradburn	<u>AYE</u>
Burnett	<u>AYE</u>
Hohn	<u>AYE</u>
Johnston	<u>AYE</u>

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Thomas S. Hogan, The Hogan Law Firm, LLC  
City Attorney