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Ordinance No. 107228

AN ORDINANCE relating to the City Employees' Retirement System and amending Sections 2, 16, 18 and 19 to eliminate the requirement that a beneficiary nominated by a member of the retirement system must have an insurable interest in the life of such member.

3/8/78 Pass

COMPTROLLER
FILE NUMBER _____

Council Bill No. 99223

INTRODUCED: FEB 27 1978	BY: EXECUTIVE REQUEST
REFERRED: FEB 27 1978	TO: PERSONNEL & PROPERTY MANAGEMENT
REFERRED:	
REPORTED: MAR 13 1978	SECOND READING: MAR 13 1978
THIRD READING: MAR 13 1978	SIGNED: MAR 13 1978
PRESENTED TO MAYOR: MAR 14 1978	APPROVED: MAR 21 1978
RETD. TO CITY CLERK:	PUBLISHED:
VETOED BY MAYOR: MAR 21 1978	VETO PUBLISHED:
PASSED OVER VETO:	VETO SUSTAINED:

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ORDINANCE 107228

AN ORDINANCE relating to the City Employees' Retirement System and amending Sections 2, 16, 18 and 19 to eliminate the requirement that a beneficiary nominated by a member of the retirement system must have an insurable interest in the life of such member.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 2 of Ordinance 78444 as last amended by Ordinance 104572 is further amended to read as follows:

Section 2. Unless a different meaning is plainly required by the context the terms used in this ordinance shall have the following meanings:

(a) "Retirement System" shall include "City Employees' Retirement System" provided for in Section 3 of this ordinance and the system of death benefits established therein.

(b) "Employee" means all officers and employees of the City and of the Seattle Public Library eligible to membership in the Retirement System pursuant to law.

(c) "Member" means any person included in the Retirement System as provided in Section 4 of this ordinance.

(d) "City" means The City of Seattle.

(e) "Board" means "Board of Administration" as provided in Section 9 of this ordinance.

(f) "Retirement Fund" means "Employees' Retirement Fund" created and established in Section 8 of this ordinance.

(g) "City Service" means service rendered to the City for compensation and for the purpose of this ordinance, a member shall be considered as being in the "City Service" only while he is receiving compensation for such service or is on leave of absence on account of sickness or injury subsequent to July 1, 1929, and makes contributions covering such period as provided in Section 6 (a) hereof.

1 (h) "Prior Service" means city service of a member
2 prior to July 1, 1929, except as follows: In the case of
3 officers and employees of the Seattle Public Library prior
4 to July 1, 1937; in the case of employees entering the
5 classified civil service under the Charter Amendments of
6 March 12, 1940, and March 13, 1945, prior to March 16, 1940,
7 and March 16, 1945, respectively; and in case of employees
8 entering such service under Chapter 105, Laws of Washington
9 1943, prior to September 1, 1943.

10 (i) "Continuous Service" shall mean uninterrupted
11 employment by the City, except that discontinuance of City
12 Service of a member caused by lay-off, leave of absence,
13 suspension, or dismissal, followed by re-entrance into City
14 Service within one year, shall not count as a break in the
15 continuity of service; provided that for the purpose of
16 establishing membership in the Retirement System continuous
17 service shall mean six months' service in any one year.

18 (j) "Beneficiary" means any person in receipt of a
19 pension, annuity, retirement allowance, disability allowance,
20 or any other benefit provided in this ordinance.

21 (k) "Compensation" means the salary or wage, exclusive
22 of overtime, indicated on payrolls and/or vouchers.

23 (l) "Compensation Earnable" by a member means the
24 average compensation as determined by the Board of Adminis-
25 tration upon the basis of the average period of employment
26 of members in the same group or class of employment and at
27 the same rate of pay. Any other provisions of this ordinance,
28 particularly Section 5 (b), insofar as in conflict herewith
29 are hereby superseded.

30 (m) "Final Compensation" means the average annual
31 compensation earnable by a member during his twenty-four
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1 (24) highest consecutive months prior to termination of
2 employment with the City.

3 (n) "Normal Contribution" means contribution at the
4 rate provided for in Subdivision (a) of Section 5 of this
5 ordinance.

6 (o) "Additional Contributions" means the contributions
7 provided for in Subdivision (d), Section 5, of this ordinance.

8 (p) "Regular Interest" means interest compounded
9 annually at such rate as shall have been adopted by the
10 Board of Administration in accordance with the provisions of
11 this ordinance.

12 (q) "Accumulated Normal Contributions" means the sum
13 of all normal contributions, deducted from the compensation
14 of a member, standing to the credit of his individual account,
15 together with regular interest thereon.

16 (r) "Accumulated Additional Contributions" means the
17 sum of all additional contributions, deducted from the
18 compensation of a member, standing to the credit of his
19 individual account, together with regular interest thereon.

20 (s) "Accumulated Contributions" means accumulated
21 normal contributions plus accumulated additional contribu-
22 tions but shall not include death benefit assessments.

23 (t) "Pension" means payments derived from any con-
24 tributions made by the City.

25 (u) "Annuity" means payments derived from contribu-
26 tions made by a member as provided in Sections 14 and 16 of
27 this ordinance.

28 (v) "Retirement Allowance" means the pension plus the
29 annuity.

30 (w) "Fiscal Year" means any year commencing with
31 January 1st and ending with December 31st next following.
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1 (x) "Creditable service" means such city service as is
2 evidenced by the record of normal contributions received
3 from the employee plus prior service if credit for same is
4 still intact or not lost through withdrawal of accumulated
5 normal contributions as provided in Section 12 hereof.

6 (y) "Death Benefit" means the payments upon proof of
7 death of a member provided for in Section 24 of this ordinance.

8 (z) "Death Benefit Assessment" means the payments
9 required of members of the death benefit system under Sections
10 24 and 25 of this ordinance.

11 (aa) "Basic Pension" shall mean the annuity derived
12 from normal contributions of members; the pension derived
13 from matching contributions of the City and the pension for
14 prior service, if any.

15 Section 2. Section 16 of Ordinance 78444 as last
16 amended by Ordinance 100792 is further amended to read as
17 follows:

18 Section 16(a). Upon retirement for disability, as
19 hereinabove provided, provided the disability is not due to
20 intemperance, willful misconduct or violation of law, of
21 which the Board shall be the judge, a member shall receive a
22 retirement allowance calculated as follows:

23 One and one-half percent (1-1/2%) of final compensation
24 multiplied by years of creditable service, if such retirement
25 allowance exceeds one third of his final compensation;
26 otherwise one and one-half percent (1-1/2%) of final compensation
27 multiplied by years of service which would be creditable to
28 him were his services to continue until attainment of age
29 sixty-two (62) but such alternative disability retirement
30 allowance shall not exceed one-third of such final compensation;
31 provided, that no disability retirement allowance shall
32 exceed sixty percent (60%) of final compensation. Notwithstanding

1 any provision of this section to the contrary, the minimum
2 retirement allowance shall be One Hundred Forty Dollars
3 (\$140.00) per month.

4 The retirement allowance as above calculated shall
5 consist of:

6 (1) An annuity which shall be the actuarial equivalent
7 of the member's accumulated normal contributions.

8 (2) A pension which shall be the actuarial equivalent
9 of the City's matching contributions.

10 (3) A pension for prior service, if any, calculated at
11 the rate of one and one-half percent (1-1/2%) of final
12 compensation for each year of prior service, which shall be
13 provided by contributions of the City.

14 (4) An additional pension, provided by contributions
15 of the City, should the calculation of the allowance show
16 that (1), (2) and (3) above are not enough to produce the
17 retirement allowance indicated.

18 (5) When use of proper annuity and pension rates
19 result in a retirement allowance amounting to more than
20 would be realized by adherence to the formula indicated in
21 subsection (a) of this section the Board shall allow the
22 higher amount.

23 (b) The disability allowances of all members retired
24 for disability prior to January 1, 1971 shall on January 1,
25 1971 be increased by Twenty Dollars (\$20.00) per month over
26 the monthly benefit payable immediately prior to January 1,
27 1971, but no such pension of members retired for disability
28 shall be less than One Hundred Forty Dollars (\$140.00) per
29 month as of such date. Nothing in this subsection shall
30 affect the amount of any bonus dividend declared pursuant to
31 Section 7.1 of this Ordinance. Such increases shall be paid
32 from available retirement system funds or from contributions

1 of the City; Provided, That such increases shall not be
2 applicable to persons retired for disability on and after
3 September 1, 1970 and on and before December 31, 1970 who
4 pursuant to Ordinance 99271 select benefits applicable to
5 persons who retire on and after January 1, 1971.

6 (c) If disability is due to intemperance, willful
7 misconduct or violation of law, on the part of the member,
8 the Board of Administration, in its discretion, may pay to
9 said member, in one lump sum his accumulated contributions,
10 in lieu of a retirement allowance, and such payment shall
11 constitute full satisfaction of all obligations of the City
12 to such member, and upon receipt of such payment he shall
13 cease to be a member of the System.

14 (d) Upon the death of a member, while in receipt of a
15 disability retirement allowance, his accumulated contributions,
16 as they were at the date of his retirement, less any annuity
17 payments made to him, shall be paid to his estate, or to
18 such persons as he shall have nominated by written designation
19 duly executed and filed with the Board; provided, that such
20 refund of contributions may be made in monthly payments if
21 requested by the beneficiary and approved by the Board.

22 (e) Any surviving spouse of a member receiving a
23 disability retirement allowance, may if named as beneficiary
24 elect to receive and thereupon shall be paid in lieu of
25 benefits under subsection (d) of this section a monthly
26 benefit the equivalent of a survivor's "Option E" retirement
27 allowance computed on the basis of the member's age at date
28 of death, years of creditable service, and normal and matching
29 contributions reduced by all sums theretofore paid the
30 deceased member as annuity on normal contributions and
31 pension on matching contributions. Said spouse may elect to
32 receive a cash payment of not to exceed one-half of the

1 deceased member's remaining normal contributions, and such
2 cash payment shall effect a reduction of the survivor's
3 monthly benefit by the amount of annuity such payment would
4 have purchased.

5 ~~Section 3.~~ Section 18 of Ordinance 78444 is amended to
6 read as follows:

7 Section 18. A member may elect to receive, in lieu of
8 the retirement allowance provided for in Section 14, its
9 actuarial equivalent in the form of a lesser retirement
10 allowance, payable in accordance with the terms and conditions
11 of one of the options set forth below in this section.

12 Election of any option must be made by written application
13 filed with the Board of Administration at least thirty (30)
14 days in advance of retirement as provided in Section 13, and
15 shall not be effective unless approved by the Board prior to
16 retirement of the member.

17 OPTION A. The lesser retirement allowance shall be
18 payable to the member throughout his life, provided that if
19 he die before he receive in annuity payments referred to in
20 paragraph (1) of subdivision (a) of Section 14 a total
21 amount equal to the amount of his accumulated contributions
22 as it was at the date of his retirement, the balance of such
23 accumulated contributions shall be paid in one sum to his
24 estate or to such person as he shall nominate by written
25 designation duly executed and filed with the Board.

26 OPTION B. The lesser retirement allowance shall be
27 payable to a member throughout his life, provided that if he
28 die before he receive in annuity payments referred to in
29 paragraph (1) of subdivision (a) of Section 14 a total
30 amount equal to the amount of his accumulated contributions
31 as it was at the date of his retirement, the said annuity
32 payments resulting from his accumulated contributions shall

1 be continued and paid to his estate or to such person as he
2 shall nominate by written designation duly executed and
3 filed with the Board, until the total amount of annuity
4 payments shall equal the amount of his accumulated contributions
5 as it was at the date of his retirement.

6 OPTION C. The member shall elect a "guaranteed period"
7 of any number of years. If he dies before the lesser retirement
8 allowance has been paid to him for the number of years
9 elected by him as the "guaranteed period," the lesser retirement
10 allowance shall be continued to the end of the "guaranteed
11 period," and during such continuation shall be paid to his
12 estate or to such person as he shall nominate by written
13 designation duly executed and filed with the Board.

14 OPTION D. The lesser retirement allowance shall be
15 payable to the member throughout life, and after the death
16 of the member, one-half of the lesser retirement allowance
17 shall be continued throughout the life of and paid to the
18 wife or husband of the member.

19 OPTION E. The lesser retirement allowance shall be
20 payable to the member throughout life, and after death of
21 the member it shall be continued throughout the life of and
22 paid to the wife or husband of the member.

23 ----- Section 4. Section 19 of Ordinance 78444 as last
24 amended by Ordinance 106798 is further amended to read as
25 follows:

26 Section 19. (a) Upon the death of any member who has
27 not been retired pursuant to the provisions of this ordinance,
28 such member's accumulated contributions less any payments
29 therefrom already made to such member shall be paid to such
30 member's surviving spouse, or if the deceased member does
31 not have a surviving spouse, or if the surviving spouse
32 prior to the death of such member consented in writing to

1 the naming as hereafter provided of a different beneficiary
2 or beneficiaries and waived in writing all rights to benefits
3 under Subsection 19(b) hereof, then to such member's estate,
4 or to such person or persons as such member shall have
5 nominated by written designation duly executed and filed
6 with the Board. Such payment may be made in one lump sum or
7 may be paid in installments over a period of not to exceed
8 five years, as may be designated by the member or his beneficiary,
9 with such rate of interest as may be determined by the
10 Board.

11 (b) Any surviving spouse, of a member not retired but
12 having at the date of death at least ten years of creditable
13 service as defined in this ordinance, who is entitled to
14 receive such deceased member's accumulated contributions as
15 provided in Subsection 19(a), may elect to receive and
16 thereupon shall be paid in lieu of benefits under Subsection
17 19(a), a benefit the equivalent of a survivor's "Option E"
18 retirement allowance. The spouse may, however, elect to
19 receive in lieu of either the above retirement allowance or
20 the benefits under Subsection (a) of this section, a lesser
21 retirement allowance to cease at such spouse's death and in
22 addition a cash payment not to exceed one-half of the deceased
23 member's accumulated normal contributions. However, such
24 withdrawal shall not serve to reduce such lesser retirement
25 allowance except by the amount of annuity which such withdrawal
26 would have purchased.

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(To be used for all Ordinances except Emergency.)

Section ⁵..... This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the city charter.

Passed by the City Council the 13 day of March, 1978,
and signed by me in open session in authentication of its passage this 13 day of
March, 1978. Phyllis Lamphere
President of the City Council.

Approved by me this 21 day of March, 1978.
Charles Raper
Mayor.

Filed by me this 21 day of March, 1978

Attest: E. L. King
City Comptroller and City Clerk.

(SEAL)

Published.....
Rayne Angwine
Deputy Clerk.

Your
Seattle
City Employees' Retirement System



Board of Administration

John A. Lunn, Executive Secretary

February 14, 1978

Honorable City Council
City of Seattle,
Washington

Mesdames and Gentlemen:

The Board of Administration respectfully requests that Ordinance 78444, as amended, be further amended to eliminate the requirement that a beneficiary nominated by a member of the retirement system must have an insurable interest in the life of such member as presently required in Sections 2, 16, 18 and 19.

A Corporation Counsel opinion, dated August 25, 1977, Re: The Phrase "Persons having an insurable interest in his life" in Ordinance 78444, as amended, stated in part: "In our opinion, Ordinance 78444 may be amended to allow a member to designate any beneficiary for payment of the member's accumulated contributions to the retirement system irrespective of whether or not the recipient has an insurable interest in the member's life."-----"Likewise, a member's interest in his own life obviates any legal necessity for Ordinance 78444 to require that a recipient of a member's accumulated retirement contributions have an insurable interest in the member's life."

Enclosed is a draft of a proposed ordinance, prepared by the Corporation Counsel's staff, which incorporates the amendment. The Board recommends your honorable body's concurrence and that the amending ordinance be adopted.

Very truly yours,

BOARD OF ADMINISTRATION

By John A. Lunn
John A. Lunn, Executive Secretary

JAL:dec
Encl.

JAMES M. TAYLOR
 GORDON F. CRANDALL
 G. GRANT WILCOX
 THOMAS J. WETZEL
 ARTHUR T. LANE
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THE CITY OF SEATTLE

LAW DEPARTMENT

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 P. STEPHEN D. JULIC

CLAIMS MANAGER

V. L. POBER

August 25, 1977

Re: The Phrase "Persons having an insurable interest in his life" in Ordinance 78444, as Amended

Mr. John A. Lunn
 Executive Secretary
 Board of Administration
 City Employees Retirement System
 The City of Seattle

Dear Mr. Lunn:

By letter dated July 7, 1977 you refer to Ordinance 78444, Section 2(y)(b), as amended by Ordinance 104572, defining the term "persons having an insurable interest in his life" for the purposes of the City Employees' Retirement System; and you request our opinion as to the documentation that may be required to authorize payment to such persons and you ask for examples to illustrate the concept. Ordinance 78444 defines the term "persons having an insurable interest in his life" as follows:

- "a. In the case of persons related closely by blood or by law, those persons having a substantial interest engendered by love and affection; and
- "b. In the case of other persons, those persons having a lawful and substantial economic interest in having the life, health or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured."

Ordinance 78444 in Section 16 (relating to members of the retirement system receiving disability retirement allowances) and in Section 19 (relating to members before retirement) authorizes payment of accumulated contributions upon the member's death ". . . to his estate, or to such persons having an insurable interest in his life as he shall have

Mr. John A. Lunn
August 25, 1977
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nominated by written designation duly executed and filed with the board"

The Board of Administration has the duty to administer the retirement fund for the benefit of all of the members of the retirement system, Browning v. Seattle, 50 Wn.2d 813 (1957). As the administrator, the Board must exercise due care, diligence and skill in administering the fund, making payments to those entitled thereto and denying payment where unauthorized, 11 McQuillin Municipal Corporations (3rd Ed. Rev. 1973) 620. The existence of an insurable interest presents a question of fact, 46 Corpus Juris Secundum 598 (1946). To assure that payments are made properly, the Board may require a claimant to present such substantiation as may be reasonably and properly requested by a prudent administrator. The Board may accept an affidavit from the claimant describing the affiant's relationship with or economic interest in "the life, health or bodily safety" of the decedent with a copy of supporting material, e.g. a dependent may describe support received from the decedent while alive and attach a copy of decedent's will with the dependent named as a beneficiary, cf. 43 American Jurisprudence 2d (1969) Insurance § 515, (Insurable Interest, dependents); a creditor may identify a debt due and append an agreement in which the decedent pledges his retirement contributions as security to make payment in the event of his death cf. 43 Am. Jur. 2d 546, Insurance § 519 (Creditors); or a business partner may identify their partnership and the decedent's participation or contribution to its activities, and expected advantages had the decedent lived longer, Cf. 43 Am. Jur. 2d 543, Insurance § 516, Annotation 70 ALR 2d 577, 580 (1960). If the Board anticipates, or may reasonably anticipate, claims by two or more persons, the City may bring an interpleader action in the Superior Court pursuant to RCW 4.08.160-.170, deposit the funds with the clerk of the court, name the claimants, and request the court to determine the disposition of the funds deposited. Where the Board doubts the propriety of making payment to a claimant, the Board may inform the Executor or Administrator of decedent's estate, if any, of the claim, and if the Executor or Administrator asserts an interest in or claim to the funds, the City may institute an interpleader action, or alternatively, the City may institute declaratory proceedings to determine the appropriate action, RCW 7.24.040.

Washington Supreme Court cases have held that a divorced wife has an insurable interest in the life of her former husband under an insurance policy taken out during their marriage and paid with community funds, Northwestern Life

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Insurance Co. v. Perrigo, 47 Wn.2d 291 (1955); Chase v. Chase, 74 Wn.2d 253 (1968); Humphrey v. Mutual Life Insurance Co. of New York, 86 Wash. 672 (1915); Teed v. Brotherhood of American Yeoman, 111 Wash. 367 (1920); and a corporation has an insurable interest in the life of its officers when it relies on their skill and ability, May v. Rudell, 149 Wash. 393 (1928). Other examples of an insurable interest are:

A college student in the life of his godmother, who cared for him during his adolescence, visited him and gave him clothing and presents from time to time, Drane v. Jefferson Standard Life Insurance Co., 139 Tex. 101, 161 S.W. 2d 1057 (1942).

A foster parent in the life of a ward raised during childhood where there is a reasonable expectation of help and care during the benefactor's declining years, Annotation 25 ALR 1547 (1923); 43 Am. Jur. 2d 546, Insurance § 509.

A putative husband and wife in the lives of each other, Jenkins v. Hill, 35 Cal. App. 2d 521, 96 P.2d 168, 169 (1939); Rudell v. Board of Admin. etc., 8 Cal.2d 600, 66 P.2d 1203 (1937); 43 Am. Jur. 2d 537, Insurance § 506, cf. Levas v. Metropolitan Life Ins. Co., 175 Wash. 159 (1933).

Co-obligors on an indebtedness in the lives of each other to the amount of the indebtedness outstanding, Annotation 50 ALR 336 (1927); 43 Am. Jur. 2d, 548, Insurance § 521.

Most courts hold that a fiance and a fiancee have insurable interests in each other's lives, Annotation 17 ALR 580 (1922), 43 Am. Jur. 2d 538, Insurance § 507.

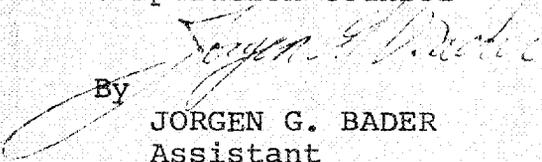
During a telephone conversation your Assistant Executive Secretary noted that Ordinance 78444 §§ 24 and 25, as amended, contemplate payment of the death benefit to any beneficiary properly designated by the member and he inquired whether Ordinance 78444 §§ 16 and 19 could be amended to delete the requirement that beneficiaries of a member's accumulated contributions have an insurable interest in the member's life. In our opinion, Ordinance 78444 may be amended to allow a member to designate any beneficiary for payment of the member's accumulated contributions to the retirement system irrespective of whether or not the recipient has an insurable interest in the member's life. A

Mr. John A. Lunn
August 25, 1977
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person has an insurable interest in his own life and may insure it for the benefit of any person he sees fit, regardless of whether the beneficiary named has or has not an insurable interest in his life, Bartel v. Ridgefield Lumber Co., 131 Wash. 174, 182-183 (1924). Likewise, a member's interest in his own life obviates any legal necessity for Ordinance 78444 to require that a recipient of a member's accumulated retirement contributions have an insurable interest in the member's life.

Yours very truly,

JOHN P. HARRIS
Corporation Counsel

By 

JORGEN G. BADER
Assistant

JGB:vf

This Ordinance, according to Al Lund, was drafted at the request of the City Attorney, for two reasons: (1) to give retirement board members more flexibility in naming beneficiaries; and (2) to eliminate the need to repeatedly define 'insurable interest' to meet the nomination requests of retirement members. Apparently, when members wanted to nominate someone who appeared to have no insurable interest in the member, this prompted the City Attorney to consider why this provision was included in the ordinance at all. It was, therefore, amended in this fashion.

They are sending us City Attorney's
opinion

The City of Seattle--Legislative Department

MR. PRESIDENT:

Date Reported
and Adopted

Your Committee on PERSONNEL AND PROPERTY MANAGEMENT

MAR 13 1976

to which was referred

C.B. 99223

Relating to the City Employees' Retirement System and amending Section 2, 16, 18 and 19 to eliminate the requirement that a beneficiary nominated by a member of the retirement system must have an insurable interest in the life of such member.

RECOMMEND THAT THE SAME DO PASS

P&PM
Chairman

Chairman

Committee

Committee

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Ezee. Request

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO:

APM

PRESIDENT'S SIGNATURE