

ORDINANCE 22-06

AN ORDINANCE OF THE CITY OF MARCO ISLAND, COLLIER COUNTY, FLORIDA, AMENDING CHAPTER 22 "FIRE PREVENTION AND PROTECTION," ARTICLE III "FIREFIGHTERS' PENSION PLAN," IN ACCORDANCE WITH THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY AND THE INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS LOCAL NO. 2887 FOR THE PERIOD OCTOBER 1, 2021 THROUGH SEPTEMBER 30, 2024; BY AMENDING SECTION 22-56 "CONTRIBUTIONS," SECTION 22-57 "BENEFIT AMOUNTS AND ELIGIBILITY," SECTION 22-61 "OPTIONAL FORMS OF BENEFITS," AND ADDING SECTION 22-74 "DEFERRED RETIREMENT OPTION PROGRAM (DROP)"; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marco Island (the "City") maintains a defined benefit pension plan for its firefighters, which is known as the City of Marco Island Firefighters' Pension Plan (the "Plan"), and which is codified in Chapter 22 of the City Code; and

WHEREAS, the City and the International Association of Fire Fighters Local No. 2887 (the "Union") ratified a collective bargaining agreement ("CBA") wherein the parties agreed that the City would adopt an ordinance amending the Plan to provide for the codification of the changes to the Plan set forth in the CBA; and

WHEREAS, the Plan should be amended to conform with the collectively bargained changes to the Plan as set forth in the CBA; and

WHEREAS, the City Council finds that it is in the best interest of the City and its employees to amend the Plan; and

WHEREAS, prior to Second Reading of this Ordinance, the City Council has received, reviewed, and considered an actuarial impact statement describing the actual impact of the amendments provided for herein.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA THAT:

SECTION 1. Recitals. Each and all the foregoing recitals be and the same are hereby incorporated into this Ordinance as if specifically set forth herein.

SECTION 2. Amendment and Adoption. That Section 22-56 "Contributions" of Article III "Firefighters' Pension Plan" of Chapter 22 "Fire Prevention and Protection" of the City Code is hereby amended to read as follows:¹

Sec. 22-56. Contributions.

(a) Member contributions.

- (1) *Amount.* Prior to July 1, 2022, members ~~Members~~ of the pension plan shall be required to make regular contributions to the fund in the amount of one percent of their salary. Effective July 1, 2022, members of the pension plan shall be required to make regular contributions to the fund in the amount of three percent of their salary. Member contributions withheld by the city on behalf of the member shall be deposited with the board every pay period. The contributions made by each member to the fund may be designated by the city as employer contributions pursuant to Section 414(h) of the Code. Such designation is contingent upon a resolution adopted by the city council and the contributions being excluded from the member's gross income for federal income tax purposes. For all other purposes of the pension plan, such contributions shall be considered to be member contributions. ~~Effective October 1, 2015, should city contributions plus member contributions plus all of the insurance premium tax revenues (i.e. "175 funds") received by the plan in a given fiscal year be insufficient to fully fund the plan as determined~~

¹ Additions to the text are shown in underline. Deletions to the text are shown in strikethrough. Additions added between first and second reading are shown in double underline.

~~by the plan's actuary in its most recent actuarial valuation report for that plan fiscal year, member contributions may temporarily be increased to fund any deficiency; provided, that any such deficiency shall first be addressed by allocation of 175 funds according to this section and any temporary increase in member contributions, should it be necessary, shall not exceed five percent in one fiscal year. Member contributions shall then immediately return to their prior one percent of salary for the following plan fiscal year.~~

(2) *Method.* Member contributions shall be made by payroll deduction.

- (b) *Insurance premium tax revenues and other contributions received by operation of state law.* Insurance premium tax revenues collected and distributed pursuant to F.S. ch. 175, and any other monies received by operation of the laws of the state for the express purpose of funding and paying for retirement benefits for firefighters of the city, shall be deposited into the pension fund within five days after receipt by the city. In conjunction with the city's adoption of a resolution implementing this pension plan pursuant to F.S. § 175.351, the insurance premium tax revenues received pursuant to F.S. § 175.101, shall be deposited into and become an integral part of this pension fund, and not used for any other purpose. The allocation of insurance premium tax revenues under F.S. ch. 175 shall be determined by mutual consent between the city and the collective bargaining representative of the members. Pursuant to such mutual consent, and until such mutual consent changes, insurance premium tax revenues shall be allocated as follows.

- (1) Effective October 1, 2015 through June 5, 2022 day before second reading, insurance premium tax revenues received up to the base premium tax revenue amount of \$73,936.00 shall be applied to reduce the city's annual required contribution as specified by the plan's actuary in its most recent actuarial valuation report. All insurance premium tax revenues in excess of \$73,936.00 shall be used to fund the firefighter share plan as set forth in section 22-61(h) of this Code. Notwithstanding, should the annual cost to fully fund the pension plan as determined by the plan's actuary in its most recent actuarial valuation report in any fiscal year exceed the sum of city contributions plus member contributions plus insurance premium tax revenues up to \$73,936.00, then the amount of insurance premium tax revenues that exceeds \$73,936.00 necessary to fund such deficiency shall be applied to reduce such contribution shortfall. Prior to increasing of member contributions, any shortfall as described herein shall first be addressed by applying 175 funds accordingly. Should the available 175 funds for such fiscal year be insufficient to cover the shortfall, then member contributions shall be increased accordingly subject to the provisions articulated herein.

- (2) Effective June 6, 2022, thirty-two and one half (32.5%) percent of the premium tax revenue funds received annually shall be used by the City to offset its annual required pension contribution and sixty-seven- and one-half percent (67.5%) of the premium tax revenue funds received shall be credited to the Firefighter Share Plan and shall be disbursed among Share Plan participants in accordance with the Plan's Share Plan distribution rules.

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SECTION 3. Amendment and Adoption. That Section 22-57 "Benefit amounts and eligibility" of Article III "Firefighters' Pension Plan" of Chapter 22 "Fire Prevention and Protection" of the City Code is hereby amended to read as follows:

Sec. 22-57. Benefit amounts and eligibility.

- (a) *Normal retirement date.* A member's normal retirement date hired by the city prior to July 1, 2022, shall be the first day of the month coincident with or next following the attainment of age 55 and the completion of ten years of credited service, the vesting period for members in this plan for normal retirement date shall be reduced from ten years to six years effective July 1, 2001, provided that the member is "employed in a regularly established position" on that date. If not so employed on that date a member must be "employed in a covered position for at least one work year after July 1, 2001", or upon attaining 25 years of credited service regardless of age. A member's normal retirement date hired by the city on or after July 1, 2022, shall be the first day of the month coincident with or next following the attainment of age 55 and the completion of ten years of credited service, or upon attaining 25 years of credited service regardless of age. The vesting period shall be ten years. A member may retire on his normal retirement date or on the first day of any month thereafter, and each member shall become 100 percent vested in his accrued benefit on the member's normal retirement date. Normal retirement under the pension plan is retirement from employment with the city on or after the normal retirement date.

* * *

- (e) *Cost of living adjustment.* ~~The monthly benefit of each retiree and beneficiary receiving benefits under this plan shall be increased each January 1 by three percent. For credited service earned before October 1, 2022, each January 1 following the later of the member's termination date or otherwise normal retirement date, retirees (including disability retirees), beneficiaries and joint pensioners of deceased members or retirees who are~~

receiving monthly benefit payments shall receive a three percent increase in their monthly benefit amount. For credited service earned on and after October 1, 2022, each January 1 following the later of the member's termination date or otherwise normal retirement date, retirees (including disability retirees), beneficiaries and joint pensioners of deceased members or retirees who are receiving monthly benefit payments shall receive an increase in an amount equal to the COLA under title II of the Social Security Act, with a minimum percentage not to go below one percent and a maximum percentage not to exceed one and one half percent.

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SECTION 4. Amendment and Adoption. That Section 22-61 "Optional forms of benefits" of Article III "Firefighters' Pension Plan" of Chapter 22 "Fire Prevention and Protection" of the City Code is hereby amended to read as follows:

Sec. 22-61. Optional forms of benefits.

* * *

Crediting effective December 2008 and thereafter for members hired prior to July 1, 2022. Share accounts shall be funded solely with additional premium tax revenues as defined herein. Effective October 1, 2015 should member contributions plus city contributions plus base premium tax revenues in the amount of \$73,936.00 be insufficient to fully fund the pension plan in a given fiscal year as determined by the plan's actuary in its most recent actuarial valuation report, additional premium tax revenues shall be allocated accordingly to fund such shortfall instead of funding member share accounts. Any additional premium tax revenue not utilized to fund such a shortfall shall be allocated to fund member share accounts accordingly.

Each member who was employed during the preceding calendar year shall receive one share for each month of credited service, as defined in section 22-52, earned during the preceding calendar year. The total number of shares thus determined shall be divided into the additional premium tax revenues received during said year, plus interest at the pension plan's actual rate of investment return, calculated from the pension plan's receipt of said revenue to December 31 of that year, to determine the amount to be credited to the share account of each eligible member.

Effective January 1 of each calendar year, each member's share account shall be credited or debited with earnings based upon the amount in the share account at the close of the next preceding calendar year (e.g., the amount credited in 2008 shall be based upon the amount in the share

account as [of] December 31, 2006, since the interest on the additional premiums tax revenues credited to the account during 2007 was already added to the amount distributed in 2007) at a rate equal to the pension plan's net investment return for the preceding calendar year (e.g., effective January 1, 2008, the amount in each share account as of December 31, 2006, shall be credited with the net investment rate of return for 2007.) Upon attaining 12 years of credited service, a member may thereafter make a one-time irrevocable election to have interest credited to his or her share account at the rate earned by the pension fund from a money market mutual fund selected by the board of trustees rather than credited or debited at the pension fund's actual rate of return.

Prior to June 6, 2022, a-A member who reaches age 55 or who attains at least 20 years of credited service shall be eligible to receive the balance in the member's share account upon actual termination of employment with the city.

Prior to June 6, 2022, a-A member with at least 15, but less than 20 years of credited service, shall be eligible to receive 75 percent of the balance in the member's share account upon actual termination of employment with the city.

Prior to June 6, 2022, a-A member with at least six but less than 15 years of credited service upon termination of employment shall be eligible to receive one-half of the balance in the member's share account upon termination of employment.

Effective June 6, 2022, a member with at least with six or more years of credited service shall be eligible to receive 100 percent of the balance in the member's share account upon actual termination of employment with the City.

No benefit shall be payable to a member who terminates covered employment with less than six years of credited service. The share account balances of such non-vested terminated members shall be redistributed into the allocation for the next fiscal year. The designated beneficiary of a member who dies shall receive the accumulated total of the deceased member's share account and a member awarded a disability pension from the pension plan shall receive the accumulated total of the disabled member's share account. There shall be no forfeiture of a member's share account based on member's death, disability, or layoff. Payment of share account benefits shall be by lump sum, which shall consist of the accumulated total of the member's share account or can be rolled over in accordance with section 22-72, with an additional payment made for any amount credited in the year following the member's termination of employment. Any additional costs of additional minimum or mandated pension benefits required by changes to state law that take effect after the

date of the ordinance from which this section derived shall be paid from the additional premium tax revenues before any remaining additional premium tax revenues are allocated to the share accounts hereunder.

Crediting for members hired on or after July 1, 2022. members hired on or after July 1, 2022, shall not receive any shares of credited service into their individual share accounts. Instead, the amount or value associated with such shares of credited service will be used by the city to offset its required contribution to the Plan. However, these members hired on or after July 1, 2022, shall be eligible to enter into the Deferred Retirement Option Plan (DROP), as defined in section 22-74, upon reaching normal retirement eligibility.

SECTION 5. Creation and Adoption. That Section 22-74 "Deferred Retirement Option plan" of Article III "Firefighters' Pension Plan" of Chapter 22 "Fire Prevention and Protection" of the City Code is hereby created to read as follows:

Sec. 22-74. Deferred retirement option plan (DROP).

(a) A deferred retirement option plan ("DROP") shall be created for all 175-member participation as soon as practicable after June 6, 2022. Eligibility to participate in the DROP is based upon eligibility for normal service retirement and subject to the below.

- (1) The maximum period of DROP participation is five (5) years. Members entering the DROP must submit an irrevocable letter of termination or resignation, effective not later than sixty months after the commencement of DROP participation. Upon entry into the DROP, the member's average final compensation and accrued benefits shall be calculated. No change in the plan benefits made subsequent to entry into the DROP shall apply to the member unless otherwise applicable to retired pension members.
- (2) Payment shall be made into the member's DROP account in an amount determined by the member's selection of the payment option as if the member had terminated employment in the city.
- (3) The interest in a member's account in the DROP program shall accrue at an effective annual rate of 1.3 percent (1.3%), compounded monthly, on the prior month's accumulated ending balance, up to the month of termination or death.

- (4) All interest will be credited to the member's DROP account at the end of the DROP period.
- (5) A member must terminate service with the city at the conclusion of years in the maximum DROP participation period. Upon termination of service with the city, a member may receive payment or defer payment until a time not later than the latest date authorized by Section 401(a)(9) of the Internal Revenue Code at the option of the employee.
- (6) No payment may be made from the DROP until the member actually separates from service with the city.
- (7) If a member dies during participation in the DROP, the member will be treated as any other retired pension member and shall not be entitled to pre-retirement death benefits.

SECTION 6. Severability/Interpretation.

(a) if any term, section, clause, sentence or phrase of this Ordinance is for any reason held to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the other or remaining terms, sections, clauses, sentences, or phrases portions of this Ordinance, and this Ordinance shall be read and/or applied as if the invalid, illegal, or unenforceable term, provision, clause, sentence, or section did not exist.

(b) In interpreting this Ordinance, underlined words indicate additions to existing text, and ~~stricken through~~ words include deletions from existing text. Asterisks (* * * *) indicate a deletion from the Ordinance of text, which continues to exist in the Code of Ordinances. It is intended that the text in the Code of Ordinances denoted by the asterisks and not set forth in this Ordinance shall remain unchanged from the language existing prior to adoption of this Ordinance.

SECTION 6. Effective Date. This Ordinance shall be effective immediately upon adoption by the City Council on second reading.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND this 6th day of June 2022.

ATTEST:


Michael J. Sheffield, City Clerk

CITY OF MARCO ISLAND, FLORIDA

By:


Erik Brechnitz, Chairman

Approved as to form and legal sufficiency


Alan L. Gabriel, City Attorney

