

## ORDINANCE 15-11

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, COLLIER COUNTY, FLORIDA, AMENDING THE CITY OF MARCO ISLAND FIREFIGHTERS' PENSION PLAN TO PROVIDE FOR COMPLIANCE WITH THE INTERNAL REVENUE CODE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on January 30, 2014 an application was filed with the Internal Revenue Service for a Favorable Determination Letter regarding the qualified status of the Plan under Section 401(a) of the Internal Revenue Code; and

**WHEREAS**, on December 18, 2014, the Internal Revenue Service issued a Favorable Determination Letter, finding that the Plan complies with all qualification requirements; and

**WHEREAS**, the Favorable Determination Letter is subject to the timely adoption of the amendments provided herein, and

**WHEREAS**, the trustees of the City of Marco Island Firefighters' Pension Plan have requested and approved such amendments as being in the best interests of the participants and beneficiaries as well as improving the administration of the plan, and

**WHEREAS**, 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.** The City of Marco Island Firefighters' Pension Plan was established as a local law pension plan pursuant to Chapter 175, Florida Statutes by adopting the City of Marco Island Ordinance No. 00-08.

**Section 2.** That Chapter 22, Article III, of Section 22-61(h), Optional Forms of Benefits, of the City of Marco Island Firefighters' Pension Plan is hereby amended as follows:

**Sec. 22-61. - Optional forms of benefits**

"Share plan." There is hereby provided, in addition to all other benefits provided in this article, an annual supplemental retirement benefit, which shall consist of an individual share account for each member of the pension plan employed as a firefighter for the City of Marco Island on or after the effective date hereof, ~~including DROP participants~~. The amount of which shall be determined annually, based upon the receipt by the fund of any "additional premium tax revenues," as defined in F.S. § 175.351(1)(b). By December 1 of each year (or, if the premium tax revenues are received after October 2, within 60 days after receipt of the premium tax revenues from the state), each actively-employed member of the pension plan employed as a firefighter for the City of Marco Island on or after the effective date hereof, ~~including DROP participants~~, shall be paid a supplemental retirement benefit determined as follows:

...

**Section 3.** That Chapter 22, Article III, of Section 22-65(a)(14), Internal Revenue Code Compliance, of the City of Marco Island Firefighters' Pension Plan is hereby amended as follows:

**Sec. 22-65. - Internal Revenue Code Compliance.**

(a) *Maximum amount of retirement income.*

...

- (14) For the purpose of applying the limitations set forth in Sections 401(a)(17) and 415 of the Internal Revenue Code, Compensation shall include any elective deferral (as defined in Code Section 402(g)(3) of the Internal Revenue Code), and any amount which is contributed or deferred by the employer at the election of the Member and which is not includible in the gross income of the Member by reason of Section 125 or 457 of the Internal Revenue Code. For limitation years beginning on and after January 1, 2001, for the purposes of applying the limitations described in this Subsection (a), compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the Member by reason of Section 132(f)(4) of the Internal Revenue Code. For limitation years on or after July 1, 2007, compensation shall include payments that otherwise qualify as compensation and that are made by the later of: (a) 2 and ½ (two and one-half) months after severance from employment with the employer, and (b) the end of the limitation year that includes the date of severance. With respect to plan years beginning on or after December 31, 2008, Compensation shall also include differential wage payments within the meaning of Section 3401(h)(2) of the Internal Revenue Code.


**Section 4.** If any word, phrase, clause, subsection, or section of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this ordinance.

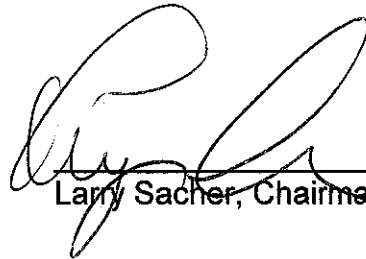
**Section 5.** That all sections or parts of sections of all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

**Section 6.** This ordinance shall take effect upon adoption.


ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND

THIS 1<sup>st</sup> day of June, 2015.

  
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Laura M. Litzan, City Clerk

  
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Larry Sacher, Chairman

Reviewed for legal sufficiency:

  
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Alan L. Gabriel, City Attorney