

**ORDINANCE 19-03**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, COLLIER COUNTY, FLORIDA, AMENDING THE CITY OF MARCO ISLAND POLICE OFFICERS' PENSION PLAN TO PROVIDE FOR COMPLIANCE WITH THE 2015-2018 TERM COLLECTIVE BARGAINING AGREEMENT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Marco Island and the Florida Police Benevolent Association entered into a Collective Bargaining Agreement effective October 1, 2015; and

**WHEREAS**, the Collective Bargaining Agreement between the Florida Police Benevolent Association and the City of Marco Island for the period of October 1, 2015 to September 30, 2018, was ratified and approved by Resolution 15-79 of the City Council on December 7, 2015; and

**WHEREAS**, the trustees of the City of Marco Island Police Officers' 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.** That section 32-35 of the Code of Ordinances is hereby amended as follows:

(1) *Member contributions.*

~~(a) *Amount.* Each member of the plan shall be required to make regular contributions to the fund in the amount of five percent of compensation. Effective September 16, 2013 through September 30, 2013, each member of the plan shall be required to make regular contributions to the fund in the amount of three percent of compensation. Notwithstanding, pursuant to the collective bargaining agreement between the city and the Police Benevolent Association, effective October 1, 2012 through September 30, 2015, the city has agreed to reimburse members from the city's general fund account (i.e., not from fund assets) two percent of the five percent originally contributed to the plan for the time period of October 1, 2012 through September 15, 2013. Effective October 1, 2013 through September 30, 2014, each member of the plan shall be required to make regular contributions to the fund in the amount of one percent of compensation. Effective October 1, 2014, each member of the plan shall be required to make regular contributions to the fund in the amount of one-half of one percent of compensation. Effective October 1, 2015, should the amount in excess of \$137,352.30 (i.e. the "frozen amount") of insurance premium tax revenues received by the plan in a given fiscal year be insufficient to fund a "contribution shortfall," as defined in section 32-35(2) of this ordinance, and as determined by the plan's actuary in its most recent Actuarial Valuation Report for that fiscal year, then member contributions may be temporarily increased for that fiscal year to such an amount to satisfy such balance. Notwithstanding, any such contribution shortfall shall first be addressed by allocation of 185 premium tax funds according to this section and then a temporary increase in member contributions, should it be necessary. In no event, however, shall member contributions be increased to exceed five percent (5%) of Compensation. Any increase to member contributions shall be temporary and shall immediately return to one-half of one percent of Compensation in the following plan fiscal year. Member contributions withheld by the city on behalf of the member shall be deposited with the board immediately after each pay period. The contributions made by each member to the fund shall be designated as employer contributions pursuant to Section 414(h) of the [Internal Revenue] Code. Such designation is contingent upon the contributions being excluded from the members' gross income for Federal Income Tax purposes. For all other purposes of the plan, such contributions shall be considered to be member contributions.~~

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

(2) State contributions. The allocation of insurance premium tax revenues under F.S. 185 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. All accumulated insurance premium tax revenues held in reserve as of December 7, 2015, shall be applied to reduce the city's annual required pension contribution. Effective October 1, 2015, for every annual distribution of insurance premium tax revenues, \$137,352.30 (representing the "frozen amount") shall be applied toward reducing the city's annual required pension contribution as specified in the most recent Actuarial Valuation Report adopted by the board of trustees. Any amount of insurance premium tax revenues received in excess of the frozen amount shall be allocated to fund the share accounts set forth in section 32-54 of this ordinance. Notwithstanding, should the plan experience a contribution shortfall, any amount of insurance premium tax revenues received in excess of the frozen amount shall first be used to fund such contribution shortfall. A contribution shortfall shall be defined as a negative balance between the sum of all: i) city contributions as outlined in this Section; ii) member contributions; and iii) the frozen amount of insurance premium tax monies received that fiscal year, and the annual required contribution ("ARC") as defined in the plan actuary's most recent Actuarial Valuation Report for that fiscal year. Should the excess above the frozen amount be insufficient to fully fund a contribution shortfall, member contributions for that plan fiscal year shall temporarily increase to such an amount as may be necessary to satisfy the contribution shortfall; provided, member contributions may not exceed five percent (5%) of Compensation for any given plan fiscal year. Any monies received or receivable by reason of laws of the State of Florida, for the express purpose of funding and paying retirement benefits for police officers of the city distribution of insurance premium tax revenues shall be deposited in the fund comprising part of this plan immediately and under no circumstances more than five days after receipt by the city.

(3) City contributions. So long as this plan is in effect, the city shall make quarterly contributions to the fund in an amount, at a minimum, equal to the difference each year, between the total aggregate member contributions for the year, plus state contributions for such year, and the total cost for the year, as shown by the most recent actuarial valuation of the plan. The total cost for any year shall be defined as the total normal cost plus the additional amount sufficient to amortize the unfunded past service liability as provided in F.S. Ch. 112, pt. VII. By no later than September 30, 2018, the city shall pay off the plan's unfunded actuarial accrued liability determined as of the Actuarial Valuation Report for the plan year ending September 30, 2014. The city shall also pay off the unfunded actuarial accrued liability increase resulting from the new

mortality table assumptions required under Chapter 2015-157, Laws of Florida. Effective October 1, 2015, the city shall annually contribute such sum as necessary to ensure that the plan's unfunded actuarial accrued liability remains at \$0 (i.e. "fully funded" or "100% funded"). Notwithstanding, the city shall make annual contributions to the plan in the amount of 43.72% of pensionable payroll. The funded status of the plan, as determined by the plan's actuary in the most recent Actuarial Valuation Report for that fiscal year, expressing the actuarial value of assets as a percentage of the actuarial accrued liability, shall remain at 100% each year utilizing member contributions, state contributions, and city contributions as described in section 32-35 of this ordinance.

(4) *Other.* Private donations, gifts and contributions may be deposited to the fund, and used to defray the cost of benefits produced to members and beneficiaries.

**Section 2.** That section 32-54 of the Code of Ordinances is hereby amended

as follows:

(1) In addition to any other benefit provided under this plan, a share account shall be established for the benefit of active members of this plan, as specified in this section. Such share plan shall be an element of this plan and shall exist in conjunction with the defined benefit component that meets minimum benefits and minimum standards under F.S. 185. Each member who is employed by the city during a plan year commencing after the share account is established shall be entitled to participate in the share account in accordance with a formula to be determined through collective bargaining between the city and the police benevolent association.

(2) An individual account will be established for each member, and the amount to which each member is entitled shall be credited to such account as at the end of each fiscal year quarter. No credits shall be made to an account after the member has separated from city service as a police officer or otherwise terminated membership in the plan.

(3) The share account shall be funded entirely and solely by ~~premium tax moneys received by the plan pursuant to F.S. Ch. 185, that are in excess of the maximum amount allowed by law to be used for all other plan benefits~~ insurance premium tax revenues received in excess of the "frozen amount" as described in section 32-35(2) of this ordinance. The share account shall annually be credited with the same rate of investment earnings as the overall rate of return on all plan investments, net of all investment management and administrative expenses. Such account

funds shall be commingled with the fund for investment purposes, however, shall be accounted for separately on a bookkeeping basis only.

(4) Each share account shall be credited or debited with interest on a quarterly basis at the fund's actual net rate of investment return for the preceding quarter. The Board of Trustees may assess a quarterly fee to each share account to recoup the costs of administering the share plan.

(5) Each member shall vest in his or her share account upon attaining six (6) or more years of credited service. A member shall be entitled to a distribution from his or her defined contribution account at the same time after separation from service as he or she is entitled to receive retirement benefits under section 32-33 of this ordinance. Distributions shall take the form of a lump sum or a direct trustee-to-trustee rollover into another qualified retirement account or plan as permitted by the Internal Revenue Code. The board of trustees may adopt rules and policies for the proper administration of this defined contribution component consistent with this section.

**Section 3.** 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 4.** 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 5.** This ordinance shall take effect upon adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND THIS  
22<sup>nd</sup> DAY OF JANUARY 2019.

**ATTEST:**

  
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Laura M. Litzan, City Clerk

**CITY OF MARCO ISLAND, FLORIDA**

By:   
\_\_\_\_\_  
Erik Brechnitz, Chairman

Approved as to form and legal sufficiency:

  
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Alan L. Gabriel, City Attorney

