

**ORDINANCE 21-17**

**AN ORDINANCE OF THE CITY OF MARCO ISLAND, COLLIER COUNTY, FLORIDA, AMENDING CHAPTER 32 "LAW ENFORCEMENT," ARTICLE II "POLICE OFFICERS' PENSION PLAN," IN ACCORDANCE WITH THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY AND THE FRATERNAL ORDER OF POLICE FOR THE PERIOD OCTOBER 1, 2021 THROUGH SEPTEMBER 30, 2024; BY AMENDING SECTION 32-33 "BENEFIT AMOUNTS AND ELIGIBILITY," SECTION 32-35 "CONTRIBUTIONS," AND SECTION 32-43 "SHARE ACCOUNT"; 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 certified police officers, which is known as the City of Marco Island Police Officers' Pension Plan (the "Plan"), and which is codified in Chapter 32 of the City Code; and

**WHEREAS**, the City and the Fraternal Order of Police (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 32-33 "Benefit Amounts and Eligibility" of Article II "Law Enforcement" of Chapter 32 "Police Officers' Pension Plan" of the City Code is hereby amended to read as follows:

- (1) *Normal retirement date.* Effective October 1, 2021, A member's the normal retirement date of a member hired by the city prior to October 1, 2021 shall be the first day of the month coincident with or next

following the earlier of the attainment of age 55 and the completion of six years of credited service, or upon completion of 25 years of credited service, regardless of age. The normal retirement date for a member hired by the City on or after October 1, 2021 shall be the first day of the month coincident with or next following the earlier of the attainment of age 57 and the completion of six years of credited service, or age 52 and the completion of 25 years of credited service. A member may retire on the member's normal retirement date or on the first day of any month thereafter, and each member shall become 100 percent vested in the benefit accrued as of the member's normal retirement date. Normal retirement under the plan is retirement from employment with the city on or after the normal retirement date.

\* \* \*

- (5) *Cost-of-living adjustment.* For credited service earned before October 1, 2021, each ~~Each~~ July 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 by a member on and after October 1, 2021, each July 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 3. Amendment and Adoption.** That Section 32-35 "Contributions" of Article II "Law Enforcement" of Chapter 32 "Police Officers' Pension Plan" of the City Code is hereby amended to read as follows:

- (1) *Member contributions.*
- (a) *Amount.* 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, 2023, each member of the plan shall be required to make regular

contributions to the fund in the amount of three 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), 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 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. ch. 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. Effective October 1, 2021, thirty-five percent of the annual distribution of insurance premium tax revenues received in excess of the frozen amount shall be applied toward reducing the city's annual requirement pension contribution and sixty-five percent ~~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. 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:

- (a) City contributions as outlined in this section;
- (b) Member contributions; and
- (c) 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.

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**SECTION 4. Amendment and Adoption.** That Section 32-54 "Share account" of Article II "Law Enforcement" of Chapter 32 "Police Officers' Pension Plan" of the City Code is hereby amended to read 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. ch. 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 fraternal order of police ~~police benevolent association~~.

\* \* \*

**SECTION 5. 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 6<sup>th</sup> day of December 2021.

**ATTEST:**

**CITY OF MARCO ISLAND, FLORIDA**

\_\_\_\_\_  
Laura Litzan, City Clerk

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

Approved as to form and legal sufficiency:

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Alan L. Gabriel, City Attorney