

ORDINANCE NO. 2019-03

AN ORDINANCE OF THE WEST MANATEE FIRE AND RESCUE DISTRICT, MANATEE COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2013-04 AMENDING AND RESTATING THE WEST MANATEE FIRE AND RESCUE DISTRICT FIREFIGHTERS' RETIREMENT PLAN; AS SUBSEQUENTLY AMENDED; AMENDING SECTION 5, CONTRIBUTIONS; AMENDING SECTION 15, MAXIMUM PENSION; AMENDING SECTION 27, DEFERRED RETIREMENT OPTION PLAN; AMENDING SECTION 28, RE-EMPLOYMENT AFTER RETIREMENT; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF FIRE COMMISSIONERS OF THE WEST MANATEE FIRE AND RESCUE DISTRICT, MANATEE COUNTY, FLORIDA, THAT;

**Section 1.** Ordinance No. 2013-04, amending and restating the West Manatee Fire and Rescue District Firefighters' Retirement Plan, as subsequently amended, is hereby amended by amending Section 5, Contributions, subsection 1., Member Contributions, to read as follows:

1. Member Contributions.

A. Amount. Each Member of the System shall be required to make regular contributions to the Fund in the amount of two and nine-tenths percent (2.9%) of his Salary. Effective October 1, 2019, each member shall contribute three and nine tenths percent (3.9%) of his Salary. Effective October 1, 2020, each member shall contribute five percent (5%) of his Salary. The additional two and one tenth percent (2.1%) increases in contributions shall be utilized by the Board to offset negative actuarial experience in a manner determined by the Board. Member contributions withheld by the District 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 §414(h) of the 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 System, such contributions shall be considered to be Member contributions.

\* \* \*

**Section 2.** Ordinance No. 2013-04, amending and restating the West Manatee Fire and Rescue District Firefighters' Retirement Plan, as subsequently amended, is hereby amended by amending Section 15, Maximum Pension, subsection 8., Ten Thousand Dollar (\$10,000) Limit; Less Than Ten Years of Service, to read as follows:

\* \* \*

8. Ten Thousand Dollar (\$10,000) Limit; Less Than Ten Years of Service.

Notwithstanding anything in this Section 15, the retirement benefit payable with respect to a Member shall be deemed not to exceed the limit set forth in this subsection 8. of Section 15 if the benefits payable, with respect to such Member under this System and under all other

qualified defined benefit pension plans to which the District contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and or for any prior limitation year, and the District has not at any time maintained a qualified defined contribution plan in which the Member participated; provided, however, that if the Member has completed less than ten (10) years of Credited Service with the District, the limit under this subsection 8. of Section 15 shall be a reduced limit equal to ten thousand dollars (\$10,000) multiplied by a fraction, the numerator of which is the number of the Member's years of Credited Service and the denominator of which is ten (10).

\* \* \*

**Section 3.** Ordinance No. 2013-04, amending and restating the West Manatee Fire and Rescue District Firefighters' Retirement Plan, as subsequently amended, is hereby amended by amending Section 17, Miscellaneous Provisions, adding subsection 10., Missing Benefit Recipients, to read as follows:

\* \* \*

10. Missing Benefit Recipients.

The System shall follow the procedures outlined in the IRS Employee Plans Compliance Resolution System (EPCRS) Program and other applicable IRS guidance to locate any missing individuals to whom a full unreduced benefit payment is due and if, at the conclusion of such efforts, the individual cannot be located, the existing procedure of cancelling payments otherwise due (provided that, if the individual is later located, the benefits due shall be paid) will apply.

**Section 4.** Ordinance No. 2013-04, amending and restating the West Manatee Fire and Rescue District Firefighters' Retirement Plan, as subsequently amended, is hereby amended by amending Section 27, Deferred Retirement Option Plan, amending subsection 6.H. and renumbering the remaining subsections, to read as follows:

\* \* \*

6. General Provisions.

\* \* \*

~~H. Prevention of Escheat:~~

~~If the Board cannot ascertain the whereabouts of any person to whom a payment is due under the DROP, the Board may, no earlier than three (3) years from the date such payment is due, mail a notice of such due and owing payment to the last known address of such person, as shown on the records of the Board or the City. If such person has not made written claim therefor within three (3) months of the date of the mailing, the Board may, if it so elects and upon receiving advice from counsel to the System, direct that such payment and all remaining payments otherwise due such person be canceled on the records of the System. Upon such cancellation, the System shall have no further liability therefor except that, in the event such person or his Beneficiary later notifies the Board of his whereabouts and requests the payment or payments due to him under the DROP, the amount so applied shall be paid to him in accordance with the provisions of the DROP.~~

f H. Written Elections, Notification.

- (1) Any elections, notifications or designations made by a Member pursuant to the provisions of the DROP shall be made in writing and filed with the Board in a time and manner determined by the Board under rules uniformly applicable to all employees similarly situated. The Board reserves the right to change from time to time the manner for making notifications, elections or designations by Members under the DROP if it determines after due deliberation that such action is justified in that it improves the administration of the DROP. In the event of a conflict between the provisions for making an election, notification or designation set forth in the DROP and such new administrative procedures, those new administrative procedures shall prevail.
- (2) Each Member or Retiree who has a DROP Account shall be responsible for furnishing the Board with his current address and any subsequent changes in his address. Any notice required to be given to a Member or Retiree hereunder shall be deemed given if directed to him at the last such address given to the Board and mailed by registered or certified United States mail. If any check mailed by registered or certified United States mail to such address is returned, mailing of checks will be suspended until such time as the Member or Retiree notifies the Board of his address.

¶ I. Benefits Not Guaranteed.

All benefits payable to a Member from the DROP shall be paid only from the assets of the Member's DROP Account and neither the ~~City~~ District nor the Board shall have any duty or liability to furnish the DROP with any funds, securities or other assets except to the extent required by any applicable law.

¶ J. Construction.

- (1) The DROP shall be construed, regulated and administered under the laws of Florida, except where other applicable law controls.
- (2) The titles and headings of the subsections in this section are for convenience only. In the case of ambiguity or inconsistency, the text rather than the titles or headings shall control.

¶ K. Forfeiture of Retirement Benefits.

Nothing in this Section shall be construed to remove DROP participants from the application of any forfeiture provisions applicable to the System. DROP participants shall be subject to forfeiture of all retirement benefits, including DROP benefits.

¶ L. Effect of DROP Participation on Employment.

Participation in the DROP is not a guarantee of employment and DROP participants shall be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.

**Section 5.** Ordinance No. 2013-04, amending and restating the West Manatee Fire and Rescue District Firefighters' Retirement Plan, as subsequently amended, is hereby amended by amending Section 28, Re-Employment After Retirement, to read as follows:

**SECTION 28. RE-EMPLOYMENT AFTER RETIREMENT.**

1. Any retiree under this system, ~~except for disability retirement as previously provided for,~~ may be reemployed by any public or private employer, ~~except the District,~~ and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this system. Re-employment Notwithstanding the previous sentence, reemployment by the District shall be subject to the limitations set forth in this section.

\* \* \*

5. After Disability Retirement.

- A. Subject to paragraph B. below, any Retiree who is retired under Section 8., Disability ("disability retiree"), may, subject to subsection 5., Physical Examination Requirement, of that section, be reemployed by any public or private employer, and may receive compensation from that employment without limiting or restricting in any way, the retirement benefits payable under this system.
- B. Any disability Retiree who subsequently becomes an employee of the District in any capacity, except as a Firefighter, shall discontinue receipt of disability benefits from the system for the period of any such employment.
- C. If a disability Retiree is reemployed as a Firefighter for the District, his disability benefit shall cease and Section 8., subsection 5. shall apply.

5 6. Reemployed terminated vested persons shall not be subject to the provisions of this section until such time as they begin to actually receive benefits. Upon receipt of benefits, terminated vested persons shall be treated as normal or early retirees for purposes of applying the provisions of this section and their status as an early or normal retiree shall be determined by the date they elect to begin to receive their benefit.

6 7. DROP Participants. ~~Members or r~~ Retirees who ~~are or were~~ in the Deferred Retirement Option Plan shall, following termination of employment after DROP participation, have the options provided for in this section for reemployment.

**Section 6.** All Resolutions or ordinances or parts of Resolutions or ordinances in conflict herewith be and the same are hereby repealed.

**Section 7.** If any section, subsection, sentence, clause, phrase of this Ordinance, or the particular application thereof shall be held invalid by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby.

**Section 8.** That this Ordinance shall become effective upon adoption.

ADOPTED BY MOTION AT A REGULAR MEETING THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2019.