

ORDINANCE NO. 2019-10

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, AMENDING, CHAPTER 50, PERSONNEL, ARTICLE III, PENSIONS AND RETIREMENT, DIVISION 2, MUNICIPAL FIREFIGHTERS' PENSION TRUST FUND; AMENDING SECTION 50-85, CONTRIBUTIONS; ADDING SECTION 50-109, SUPPLEMENTAL BENEFIT COMPONENT FOR SPECIAL BENEFITS; CHAPTER 175 SHARE ACCOUNTS; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY OF PROVISIONS; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING AN EFFECTIVE DATE

WHEREAS, amendments to the pension plan are proposed due to changes in the Florida Statutes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, as follows:

SECTION 1. The above Whereas clause is ratified and confirmed as true and correct.

SECTION 2. Chapter 50, Personnel, Article III, Pensions and Retirement, Division 2, Municipal Firefighters' Pension Trust Fund, Section 50-85, Contributions, subsection (b) State Contributions, is hereby amended to read as follows:

Sec. 50-85. Contributions.

- (a) Unchanged.
- (b) *State contributions.* Any monies received or receivable by reason of laws of the state for the express purpose of funding and paying for retirement benefits for firefighters of the city shall be deposited in the fund comprising part of this system immediately, and under no circumstances more than five days after receipt by the city. All monies received pursuant to F.S. ch. 175, up to ~~\$295,941.00~~ \$296,000.00 per year shall be used to reduce the city's contributions to the system. Annual Ch. 175 premium tax monies in excess of \$296,000.00 shall be split equally, with one-half of the excess used to reduce the city's contributions to the system, and one-half of the excess used to fund the share plan as provided in Sec. 50-109.
- (c) Unchanged.
- (d) Unchanged.

SECTION 3. Chapter 50, Personnel, Article III, Pensions and Retirement, Division 2, Municipal Firefighters' Pension Trust Fund, is hereby amended by adding Section 50-109, Supplemental Benefit Component for Special Benefits; Chapter 175 Share Accounts, to read as follows:

Sec. 50-109. Supplemental benefit component for special benefits; Chapter 175 share accounts.

There is hereby established an additional plan component to provide special benefits in the form of a supplemental retirement, termination, death and disability benefit to be in addition to the benefits provided for in the previous Sections of this Plan, such benefit to be funded solely and entirely by F.S. Chapter 175, premium tax monies for each plan year, as well as any excess state money reserves which are allocated to this supplemental component as provided for in F.S. 175.351. Amounts allocated to this supplemental component ("Share Plan"), if any, shall be further allocated to the members and other eligible recipients as follows:

(a) Individual Member Share Accounts. The board shall create individual "member share accounts" for all actively employed plan members and other eligible recipients and maintain appropriate books and records showing the respective interest of each member hereunder. Each member shall have a member share account for his share of the F.S. Chapter 175 tax revenues described above, forfeitures and income and expense adjustments relating thereto. The board shall maintain separate member share accounts, however, the maintenance of separate accounts is for accounting purposes only and a segregation of the assets of the trust fund to each account shall not be required or permitted.

Post employment allocations shall be payable to other eligible recipients. For purposes of this section, ("other eligible recipient") shall include those persons retiring after September 30, 2017 and receiving normal retirement, early retirement or in-line of duty disability benefits. It shall not include those persons terminating employment after September 30, 2017 who are eligible for terminated vested benefits or the beneficiaries of those members dying after September 30, 2017 who are eligible for a vested pre-retirement death benefit. It shall also not include not-in-line of duty disability benefit recipients or non-vested persons.

(b) Share Account Funding.

(1) Individual member share accounts shall be established as of September 30, 2018 for all members who were actively employed as of October 1, 2017. Individual member share accounts shall be credited with an allocation as provided for in the following subsection (c) of the reserve amount and any premium tax monies which have been allocated to the share plan for that plan year, beginning with the plan year ending September 30, 2018.

(2) Any forfeitures as provided in subsection (d), shall be used as part of future allocations to the individual member share accounts in accordance with the formula set forth in subsection (c)(1).

(c) Allocation of Monies to Share Accounts.

(1) Allocation of Chapter 175 Contributions.

a. Initial Allocation of Reserve. The city and the union representing city firefighters have agreed that one-half of the premium tax monies held in reserve in the pension fund on October 1, 2018 (one-half of \$8,865.85) shall be allocated to the share plan. Effective as of September 30, 2018, the reserve amount of premium tax monies allocated to the share plan shall be allocated to individual member share accounts as provided for in this subsection. Members retiring on or after October 1, 2017 and prior to September 30, 2018 shall receive an allocation. The reserve amount shall be allocated to the member share accounts of active Members and those members retiring on or after October 1, 2017. Such allocation shall be based on the years and fractional parts of years of Credited Service as of September 30, 2018 or the date of retirement for retirees and the total number of years and fractional parts of years of Credited Service of all persons to whom allocations are being made as of that date.

b. Annual Allocations. The city and the union representing city firefighters have agreed that one-half of the premium tax monies received each year in excess of \$296,000, if any, shall be allocated to the share plan. Effective as of September 30, 2018, the amount of premium tax monies received in the plan year ending September 30, 2018, as determined by the actuary, shall be allocated to individual member share accounts as provided for in this

subsection. In addition, all excess tax premiums actually received in any subsequent plan year shall also be allocated as provided for in this subsection. All active members and each other eligible recipient eligible for a post employment allocation as set forth in subsection d. below, shall receive an allocation. Available premium tax monies shall be allocated to individual member share accounts at the end of each plan year on September 30 (a "valuation date").

c. On each valuation date, each current member and other eligible recipient as of the valuation date shall receive a share allocation as follows:

1. Active Members - an allocation each year starting September 30, 2018 based on credited service as of the valuation date.
2. Normal Retiree - an allocation each year starting the first September 30 following retirement, based on credited service as of the retirement date.
3. Early Retiree - an allocation each year starting the first September 30 following retirement, based on credited service as of the retirement date.
4. In-line of duty disability retiree - an allocation each year starting the first September 30 following the date that benefits commence, based on Credited Service as of the effective date of the disability benefits.
5. Not-in-line of duty disability retirees, non-vested persons and all pre-retirement death beneficiaries - no post employment allocation.

d. Distribution of Post Employment Allocations. The annual amount of the allocation to those eligible for post employment allocations shall be paid as soon as administratively practicable following the valuation date, but not later than one hundred fifty (150) days following the valuation date. Post employment allocations cease upon the death of the eligible person.

e. The total funds subject to allocation on each valuation date shall be allocated to each member share account of those eligible for an allocation in an amount equal to a fraction of the total amount, the numerator of which shall be the individual's total years and fractional parts of years of credited service as of the valuation date, and the denominator of which shall be the sum of the total years and fractional parts of years of credited service as of the valuation date of all individuals to whom allocations are being made. Credited service for retirees shall include years and fractional parts of years of credited service at retirement. Beneficiaries shall receive an allocation based on the years and fractional parts of years of credited service of the deceased member.

(2) Allocation of Investment Gains and Losses. On each valuation date, each individual member share account shall be adjusted to reflect the net earnings or losses resulting from investments during the year. The net earnings or losses allocated to the individual member share accounts shall be the same percentage which is earned or lost by the total plan investments, including realized and unrealized gains or losses, net of brokerage commissions, transaction costs and management fees.

Net earnings or losses are determined as of the last business day of the fiscal year,

which is the valuation date, and are debited or credited as of such date.

For purposes of calculating net earnings or losses on a member's share account pursuant to this subsection, brokerage commissions, transaction costs, and management fees for the immediately preceding fiscal year shall be determined for each year by the investment consultant pursuant to contracts with fund managers as reported in the custodial statement. The investment consultant shall report these annual contractual fees to the board. The investment consultant shall also report the net investment return for each manager and the net investment return for the total plan assets.

(3) *Allocation of Costs, Fees and Expenses.* On each valuation date, each individual member share account shall be adjusted to allocate its pro rata share of the costs, fees and expenses of administration of the share plan. These fees shall be allocated to each individual member share account on a proportionate basis taking the costs, fees and expenses of administration of the share plan as a whole multiplied by a fraction, the numerator of which is the total assets in each individual member share account (after adding the annual investment gain or loss) and the denominator of which is the total assets of the fund as a whole as of the same date.

(4) *No Right to Allocation.* The fact of allocation or credit of an allocation to a member's share account by the board shall not vest in any member, any right, title, or interest in the assets of the trust or in the Chapter 175 tax revenues except at the time or times, to the extent, and subject to the terms and conditions provided in this Section.

(5) Members and other eligible recipients shall be provided annual statements setting forth their share account balance as of the end of the plan year.

(d) *Forfeitures.* Any member who has less than ten (10) years of service credit and who is not otherwise eligible for payment of benefits after termination of employment with the city as provided for in subsection (e) shall forfeit his individual member share account. Forfeited amounts shall be included and used as part of the Chapter 175 tax revenues for future allocations to individual member share accounts on each valuation date in accordance with the formula set forth in subsection (c)(1).

(e) *Eligibility For Benefits.* Any member (or his beneficiary) who terminates employment as a firefighter with the City or who dies, upon application filed with the board, shall be entitled to be paid the value of his individual member share account, subject to the following criteria:

(1) *Retirement Benefit.*

a. A member shall be entitled to one hundred percent (100%) of the value of his share account upon normal or early retirement pursuant to Chapter 175.

b. Such payment shall be made as provided in subsection (f).

(2) *Termination Benefit.*

a. In the event that a member's employment as a firefighter is terminated by reason other than retirement, death or disability, he shall be entitled to receive the value of his share account only if he is vested in accordance with Section 50-89.

b. Such payment shall be made as provided in subsection (f).

(3) Disability Benefit.

- a. In the event that a member is determined to be eligible for either an in-line of duty disability benefit pursuant to Section 50-88, subsection (a), or a not-in-line of duty disability benefit pursuant to Section 50-88, subsection (c), he shall be entitled to one hundred percent (100%) of the value of his share account.
- b. Such payment shall be made as provided in subsection (f).

(4) Death Benefit.

- a. In the event that a member dies while actively employed as a firefighter, one hundred percent (100%) of the value of his member share account shall be paid to his designated Beneficiary as provided in Section 50-87.
- b. Such payment shall be made as provided in subsection (f).

(f) Payment of Benefits. If a member terminates employment for any reason or dies and he or his beneficiary is otherwise entitled to receive the balance in the member's share account, the member's share account shall be valued by the plan's actuary on the next valuation date as provided for in subsection (c) above, following termination of employment. Payment of the calculated share account balance shall be payable as soon as administratively practicable following the valuation date, but not later than one hundred fifty (150) days following the valuation date and shall be paid in one lump sum payment. No optional forms of payments shall be permitted.

(g) Benefits Not Guaranteed. All benefits payable under this Section 50-109 shall be paid only from the assets accounted for in individual member share accounts. Neither the City nor the board shall have any duty or liability to furnish any additional funds, securities or other assets to fund share account benefits. Neither the board nor any trustee shall be liable for the making, retention, or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the member share account balances, except due to his or its own negligence, willful misconduct or lack of good faith. All investments shall be made by the board subject to the restrictions otherwise applicable to fund investments.

(h) Notional account. The member share account is a notional account, used only for the purpose of calculation of the share distribution amount. It is not a separate account in the system. There is no change in the system's assets, and there is no distribution available to the member or other eligible recipient until the member's or other eligible recipient's termination from employment. The member has no control over the investment of the share account.

(i) No employer discretion. The share account benefit is determined pursuant to a specific formula which does not involve employer discretion.

(j) Maximum Additions. Notwithstanding any other provision of this Section, annual additions under this Section shall not exceed the limitations of Section 415(c) of the code pursuant to the provisions of Section 50-95, subsection (k).

(k) IRC limit. The share account distribution, along with other benefits payable from the system, is subject to limitation under Internal Revenue Code Section 415(b).

SECTION 4. Specific authority is hereby granted to codify and incorporate this Ordinance in the existing Code of Ordinances of the City of Venice.

SECTION 5. All Ordinances or parts of Ordinances in conflict herewith be and the same are hereby repealed.

SECTION 6. Effective date. This ordinance shall take effect immediately upon its approval and adoption as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 26TH DAY OF FEBRUARY 2019.

First Reading: February 12, 2019

Final Reading: February 26, 2019

Adoption:

John W. Holic, Mayor

Attest:

Lori Stelzer, MMC, City Clerk

I, Lori Stelzer, MMC, City Clerk of the City of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the City of Venice Council, a meeting thereof duly convened and held on the 26th day of February 2019 a quorum being present.

WITNESS my hand and the official seal of said City this 26th day of February 2019.

Lori Stelzer, MMC, City Clerk

Approved as to form:

Kelly Fernandez, City Attorney