

**Sponsored by:** Janke  
**Introduction Date:** February 9, 2004  
**Public Hearing Dates:** February 24, 2004  
February 24, 2004  
**Enactment Date:** February 24, 2004

**CITY OF MARATHON, FLORIDA  
ORDINANCE 2004-03**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AMENDING SECTION 2 OF CITY ORDINANCE 2003-27 ESTABLISHING THE "CITY OF MARATHON FIREFIGHTERS' PENSION PLAN AND TRUST FUND" TO CLARIFY THAT MEMBER CONTRIBUTIONS WITHHELD BY THE CITY SHALL BE DESIGNATED AS EMPLOYER CONTRIBUTIONS IN ACCORDANCE WITH SECTION 414(h) OF INTERNAL REVENUE CODE AND TO ALLOW THE FIRE CHIEF TO ELECT TO PARTICPATE OR NOT TO PARTICIPATE IN THE PLAN**

**WHEREAS**, it is the desire of the City Council of the City of Marathon, Florida, that the member contributions to the defined benefit pension plan for the City's firefighters be designated as employer contributions in accordance with § 414(h) of the Internal Revenue Code; and

**WHEREAS**, the State of Florida Division of Retirement has determined that adoption of this provision will not jeopardize the plan's status as a "Chapter Plan;" and

**WHEREAS**, the State of Florida Division of Retirement's actuary has confirmed that enactment of this provision will have no cost impact to the plan; and

**WHEREAS**, the City desires to provide the Fire Chief with the ability to elect to participate or not to participate in the Plan in accordance with state law; and

**WHEREAS**, the City Council finds that the amendment of the plan is in the best interest of the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:**<sup>1</sup>

**Section 1.** Section 2 of Ordinance 2003-27 of the City of Marathon, Florida, is hereby amended to read as follows:

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1/ Additions to text are shown by underline, deletions to text are shown by ~~strikethrough~~.

A. Member contribution rate established. In lieu of the member contribution rate of five percent (5%) set forth in Section 175.091, Florida Statutes, members of the Plan shall only be required to contribute one percent (1%) of salary. Member contributions withheld by the City shall be designated as employer contributions pursuant to Section 414(h) of the Internal Revenue Code. Such designation is contingent upon the contribution being excluded from the member's gross income for Federal Income Tax purposes. For all other purposes of the Plan, such contributions shall be considered to be member contributions.

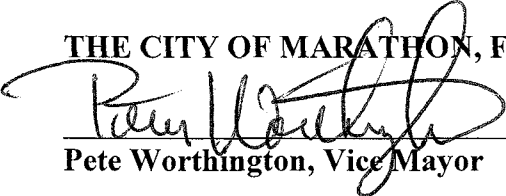
B. Election of Fire Chief. The Fire Chief may elect to participate or not to participate in the Plan and shall provide the Pension Board and the City Manager with written notice of this election within ten days from his/her hire date.

**Section 2.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

**Section 3.** It is the intention of the City of Marathon , and it is hereby ordained that the provisions of this Ordinance shall become part of the City of Marathon Ordinances, that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word “Ordinance” shall be changed to “Section” or other appropriate word.

**Section 4.** This Ordinance shall take effect retroactive to January 1, 2004.

**ENACTED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA,**  
this 24<sup>th</sup> day of February 2004.

**THE CITY OF MARATHON, FLORIDA**  
  
\_\_\_\_\_  
**Pete Worthington, Vice Mayor**

AYES: Bartus, Worthington, Pinkus, Bull  
NOES: None  
ABSENT: Mearns  
ABSTAIN: None

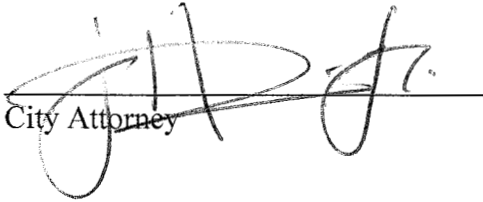
**ATTEST:**



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Cindy L. Ecklund  
City Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**



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City Attorney