VILLAGE OF KEY BISCAYNE

Office of the Village Manager

MEMORANDUM

Village Council
Franklin H. Caplan, *Mayor*
Michael E. Kelly, *Vice Mayor*
Michael W. Davey
Enrique Garcia
Robert Gusman
Mayra P. Lindsay
James S. Taintor

Village Manager
Genaro "Chip" Iglesias

DATE: May 10th, 2011

TO: Honorable Mayor and Members of the Village Council

FROM: Genaro "Chip" Iglesias, Village Manager

RE: Proposed Ordinance amending the Code of Ordinances of the Village of Key Biscayne, Chapter 23 "Retirement", Section 23-57 "Firefighter Deferred Retirement Option Program" to Allow Participation of Police Officer Members in such program

RECOMMENDATION

It is recommended that the Village Council consider the adoption of the enclosed Ordinance, which amends the Code of Ordinances of the Village of Key Biscayne, Chapter 23 "Retirement", Section 23-57 "Firefighter Deferred Retirement Option Program" to allow police officer members to participate in such plan.

BACKGROUND

The Village of Key Biscayne (the "Village") and the Key Biscayne Police Officer's Association, Local 6023, International Union of Police Associations, AFL-CIO ("IUPA"), negotiated a successor collective bargaining agreement for the Village's Police Officers and Sergeants and a successor collective bargaining agreement for the Village's Lieutenants. As a result of the successor collective bargaining agreements, the Village and IUPA agreed to amend the Village's Police Officers and Firefighters Retirement Plan (the "Plan") to allow the Village's certified law enforcement officers to participate in a Deferred Retirement Option Program. The plan will be administered by the Pension Trust Board and participation in this plan shall be limited to five years. The five-year participation period shall be measured from actual retirement of the member. Additionally, any losses incurred on account of the option selected by the participant shall not be made up by the Village or the Pension Trust Fund, but any such loss shall be borne only by the participant.

ORDINANCE NO. 2011-

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE VILLAGE OF KEY BISCAYNE, FLORIDA BY AMENDING CHAPTER 23 "RETIREMENT," SECTION 23-57 "FIREFIGHTER DEFERRED RETIREMENT OPTION PROGRAM (DROP)" TO ALLOW POLICE OFFICER MEMBERS OF THE PLAN TO PARTICIPATE IN DROP; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the "Village") and the Key Biscayne Police Officer's Association, Local 6023, International Union of Police Associations, AFL-CIO ("IUPA"), negotiated a successor collective bargaining agreement for the Village's police officers and sergeants and a successor collective bargaining agreement for the Village's lieutenants; and

WHEREAS, as a result of the successor collective bargaining agreements, the Village and IUPA agreed to amend the Village's Police Officers and Firefighters Retirement Plan (the "Plan") to allow the Village's certified law enforcement officers to participate in a Deferred Retirement Option Program; and

WHEREAS, the Village Council finds that it is in the best interest of the Village and its employees to amend the Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the above stated recitals is hereby adopted and confirmed.

Section 2. Village Code Amended. That Section 23-57 "Firefighters Deferred Retirement Options Program (DROP)" of Article II "Police Officers and Firefighters Retirement

Plan" of Chapter 23 "Retirement" of the Village Code is amended to read as follows:[1]

Sec. 23-57. - ~~Firefighter~~ Deferred Retirement Option Program (DROP).

(1) A Deferred Retirement Option Plan (DROP) for ~~firefighter m~~Members shall be adopted and administered by the Board.

(2) Participation in the DROP shall be limited to five years. The five-year participation period shall be measured from actual retirement of the ~~firefighter~~ Member.

(3) Upon entering the DROP, ~~a firefighter~~ the participant shall make an investment election for the ~~firefighter's~~ participant's DROP account among the investment options approved by the Board for DROP accounts. Thereafter, between November 15 and December 15 of each year, ~~firefighter~~ DROP participants shall make an annual irrevocable investment election among the investment options approved by the Board for DROP accounts for the following calendar year. Investment elections shall be in writing and submitted to the Retirement Board by no later than December 15 of each year. If a ~~firefighter~~ DROP participant fails to timely submit a written investment election to the Retirement Board, the default investment election for the participant's DROP account will be determined by the Board for the calendar year. Any losses incurred on account of the option selected by the participant shall not be made up by the Village or the Pension Trust Fund, but any such loss shall be borne only by the participant.

(4) Upon termination of employment ~~as a firefighter~~ with the Village, the participant's DROP account shall be distributed the participant. ~~to him.~~ The ~~firefighter~~ participant's distribution shall be equal to the balance in his DROP Account on the termination date. The ~~firefighter~~ participant shall receive his benefit in a single lump sum unless he elects to one of the following optional forms:

a. Equal annual payments over a period, designated by the ~~firefighter~~ participant, not to exceed the life expectancy of the last to survive of the participant and his beneficiary. In the event the ~~firefighter~~ participant dies before all installments have been paid, the remaining balance in his account shall be paid in an immediate lump sum to his beneficiary, if still living, or if the ~~firefighter~~ participant does not have a beneficiary or if the beneficiary has predeceased the participant, to the participant's estate. Upon written request of the ~~firefighter~~ participant (or his beneficiary in the event of the participant's death), the Board may permit the participant (or his beneficiary, as the case may be) to withdraw all or any portion of his unpaid account after payment of the benefit has commenced.

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[1] Proposed additions to existing Village Code text are indicated by underline; proposed deletions from existing Village Code text are indicated by ~~strikethrough~~.

b. An annuity.

c. An eligible rollover distribution paid directly to another qualified retirement plan.

A written notice of election to receive distribution in an optional form must be filed with the Board upon a form prescribed by the Board, and must be sworn to by the person entitled to receive such monies.

(5) The DROP shall contain such other terms and conditions as the Board deems necessary and appropriate for proper administration of the DROP.

Section 3. **Severability.** That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be 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 4. **Inclusion in the Code.** That it is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and made a part of the Code of Key Biscayne, Florida; 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 5. **Effective Date.** That this Ordinance shall be effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this ___ day of May, 2011.

PASSED AND ADOPTED on second reading this ___ day of June, 2011.

MAYOR FRANKLIN H. CAPLAN

ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY