ORDINANCE NO. _____

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA ("VILLAGE"), AMENDING THE VILLAGE CODE BY AMENDING CHAPTER 23 "RETIREMENT," SECTION 23-31 "DEFINITIONS"; BY AMENDING SECTION 23-35 "CONTRIBUTIONS" TO SET A CAP ON THE VILLAGE'S ANNUAL CONTRIBUTION INTO THE RETIREMENT PLAN AND TO ESTABLISH A CAP ON THE RETIREMENT PLAN'S UNFUNDED LIABILITY; BY AMENDING SECTION 23-36 "BENEFIT AMOUNTS AND ELIGIBILITY" TO REDUCE THE RETIREMENT BENEFIT TO 2.75 PERCENT OF AVERAGE FINAL COMPENSATION, TO REVISE THE NORMAL RETIREMENT AGE AND TO LIMIT THE MEMBERS' ANNUAL SERVICE RETIREMENT BENEFIT TO THE LESSER OF $90,000.00 OR 90% OF AVERAGE FINAL COMPENSATION; BY AMENDING SECTION 23-56 "FIREFIGHTERS' SHARE PLAN" TO CLOSE THE SHARE PLAN; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (the "Village") has a Police Officers and Firefighters Retirement Plan (the "Retirement Plan") for sworn law enforcement personnel and firefighters employed in the Village's Police and Fire Departments;

WHEREAS, the Village and the Key Biscayne Professional Association, Local 3638, which represents the Village's firefighter/paramedics, fire lieutenants and fire captains (collectively, the "Firefighters") successfully negotiated a successor collective bargaining agreement covering the period October 1, 2013 through September 30, 2016 (the "Fire CBA");

WHEREAS, the Village and the International Union of Police Associations, which represents a bargaining unit consisting of the Village's police officers and sergeants and a bargaining unit consisting of the Village's police lieutenants (collectively, the "Police Officers")

successfully negotiated successor collective bargaining agreements covering the period October 1, 2013 through September 30, 2016 (the "Police CBAs").

WHEREAS, the Fire CBA and Police CBAs contain certain changes to Retirement Plan;

WHEREAS, the Retirement Plan should be amended to conform with the collectively bargained changes as set forth in the Fire CBA and Police CBAs; and

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

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:[1]

Section 1. Recitals. The foregoing whereas clauses are true and correct and are incorporated herein by this reference.

Section 2. Village Code Amended. Article II "Police Officers and Firefighters Retirement Plan" of Chapter 23 "Retirement" of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 2-31 "Definitions" to read as follows:

Sec. 23-31. Definitions.

* * *

Annual Required Contribution means the amount of money that must be contributed to the Plan as set forth in the most recent actuarial valuation for the Plan.

* * *

Covered Payroll means the amount of payroll for those Members who have contributed to the Plan for the year covered by the actuarial valuation.

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[1] Words in ~~strikeout~~ type are deletions from existing text and words in underline type are additions.

* * *

Salary for Police Officers Members for services rendered to the Village before August 26, 2014 and for Firefighter Members for services rendered to the Village before March 11, 2014 means total cash remuneration for services rendered to the Village. Salary for Police Officer Members for services rendered to the Village on or after August 26, 2014 and for Firefighter Members for services rendered to the Village on or after March 11, 2014 shall mean a Member's base pay and any educational incentives mandated by the State of Florida. Compensation in excess of limitations set forth in § 401 (a)(17) of the Code shall be disregarded.

* * *

Unfunded liability means the amount of unfunded liability as set forth in the most recent actuarial valuation for the Plan.

* * *

Section 3. Village Code Amended. Article II "Police Officers and Firefighters Retirement Plan" of Chapter 23 "Retirement" of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 2-35 "Contributions" to read as follows:

Sec. 23-35. Contributions.

(a) *Member contributions.*

(1) *Amount.* Effective October 1, 2000, each Member of the System shall be required to make regular contributions to the Fund in the amount of 10.5 percent of the Member's Salary. Member contributions withheld by the Village on behalf of the Member shall be deposited with the Board at least monthly. 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. Notwithstanding the foregoing and effective March 11, 2014 for

Firefighter Members and August 26, 2014 for Police Officer Members, the Village's annual contribution into both the Firefighter Members' portion of the Fund and the Police Officer Members' portion of the Fund shall not exceed 14% of the System's covered payroll for the respective Members of such Fund using the definition of Salary that is applicable at the time of said calculation (the "Village's Cap"). As such, in addition to making the regular contribution to the Fund in the amount of 10.5 percent of their respective Salary, the respective Members shall be responsible for contributing to the Fund any amount over 14% of the Village's Cap in order to meet the Annual Required Contribution for the applicable Fire or Police portion of the Fund.

(2) *Method.* Such contributions shall be made by payroll deduction.

(b) *State contributions.* Any monies received or receivable by reason of laws of the State of Florida, for the express purpose of funding and paying for retirement benefits for Police Officer or Firefighters of the Village shall be deposited in the Fund comprising part of this System immediately and under no circumstances more than five days after receipt by the Village. Any premium tax revenues received by the Plan on or before March 10, 2014 pursuant to Chapter 175, Florida Statutes shall be used and administered in accordance with the Plan as it existed as of that date. Any and all premium tax revenues received by the Plan after March 11, 2014 pursuant to Chapter 175, Florida Statutes shall be used by the Plan to reduce the Village's pension contributions to the Plan and shall no longer be placed into a separate trust fund to pay extra benefits to Firefighter Members. Any and all premium tax revenues that were or will be received by the Plan pursuant to Chapter 185, Florida Statutes, including any unallocated premium tax revenues as of August 25, 2014 and the full amount of premium tax revenues received by the Village on or after August 26, 2014 shall be used by the Plan to reduce the Village's pension contributions to the Plan, and the Village may enact provisions acceptable to the State Division of Retirement to implement this provision.

(c) *Village contributions.*

(1) So long as this System is in effect, the Village shall make contributions to the Fund in an amount equal to the difference in each year between the total aggregate Member contributions for the year, plus State contributions for such year that are not contributed to the Share Plan, and the total cost for the year, as shown by the most recent actuarial valuation of the System. The total cost for any year shall be defined as the total normal cost plus the additional amount sufficient to amortize the unfunded past service liability in accordance with the requirements of F.S. ch. 112.

Notwithstanding the foregoing, effective March 11, 2014 for the Firefighter portion of the Plan and effective August 26, 2014 for the Police Officer portion of the Plan, the Village's annual contribution into either or both such portions of the Fund shall not exceed the Village's Cap.

(2) Effective March 11, 2014, the maximum unfunded liability for the Firefighter Members' portion of the Fund shall not exceed $3,024,000.00 (the "Fire UAL Cap") and effective August 26, 2014, the maximum unfunded liability for the Police Officer Members' potion of the Fund shall not exceed $1,776,000.00 (the "Police UAL Cap"). If the unfunded liability of either portion of the Fund increases over the respective Fire or Police UAL Cap, the System's multiplier for the Members of that portion of the Plan shall be automatically reduced for prospective service of the Members of that portion of the Plan to the extent necessary to keep such Members' portion of the Fund's unfunded liability under the respective Fire or Police UAL Cap. Alternatively, the Members of the portion of the Plan where the UAL Cap has been exceeded shall have the option of paying off any unfunded liability in excess of the respective UAL Cap or of making other design changes to that portion of the System in accordance with State law so that that unfunded liability of that portion of the Plan does not exceed the applicable UAL Cap. Should the Firefighter Members and/or Police Officer Members of the Plan wish to exercise either such option, the applicable unions representing the members of such groups must provide the Village with written notification prior to August 1st preceding the fiscal year in which the respective portion of the Plan's unfunded liability otherwise would exceed the applicable UAL Cap.

(d) *Other.* Private donations, gifts and contributions shall be deposited to the Fund, but such deposits must be accounted for separately and kept on a segregated bookkeeping basis. Funds arising from these sources shall be used to reduce Member contributions.

Section 4. Village Code Amended. Article II "Police Officers and Firefighters Retirement Plan" of Chapter 23 "Retirement" of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 2-36 "Benefit amounts and eligibility" to read as follows:

Sec. 23-36. Benefit amounts and eligibility.

(a) Normal retirement date.

(1) ~~A Member's~~ The normal retirement date of a Firefighter Member who is eligible to retire on or before March 10, 2014 and of a Police Officer Member who is eligible to retire on or before August 25, 2014 shall be the first day of the month coincident with or the next following the earlier of attainment of age 55 and the completion of five years of Credited Service or attainment of age 52 and the completion of 25 years of Credited Service.

(2) A Firefighter Member who is eligible to retire on or before March 10, 2014 shall also be eligible to retire on the date upon which the total of a firefighter member's age, computed in full months, plus the firefighter member's credited service, computed in full months, equals 900 months (i.e. 75 years).

(3) For those Firefighter Members are who are not eligible for normal retirement as of March 11, 2014 and for those Police Officer Members who are not eligible for normal retirement as of August 26, 2014, their normal retirement date shall be the first day of the month coincident with or following the earlier of: 1) attainment of age 55 and the completion of 10 years of Credited Service; 2) the attainment of age 52 and the completion of 25 years of Credited Service; or 3) the date upon which the total of the Member's age, computed in full months, plus the Member's credited service, computed in full months, equals 900 months (i.e. 75 years).

A Member may retire on his normal retirement date or on the first day of any month thereafter, and each Member shall become 100 percent vested in his accrued benefit on the Member's normal retirement date. Normal retirement under the System is retirement from employment with the Village on or after the normal retirement date.

(b) Normal retirement benefit.

(1) Police Officers. A Police Officer Member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on his retirement date and be continued thereafter during his lifetime, ceasing upon his death, but for ten years certain in any event. The monthly retirement benefit shall equal three percent of Average Final Compensation for each year of Credited Service earned before August 26, 2014 and shall equal two and three quarters percent of Average Final Compensation for each year of Credited Service earned on or after August 26, 2014.

(2) Firefighters. A Firefighter member retiring hereunder on or after his normal retirement date shall receive a monthly benefit which shall commence on his retirement date and be continued thereafter during his lifetime, ceasing upon his death, but for ten years certain in any event. The monthly retirement benefit for each year of Credited Service earned before March 11, 2014 shall be computed as follows:

a. Three percent of Average Final Compensation for the first 15 years of Credited Service; and

b. Four percent of Average Final Compensation for each year of credited service in excess of 15 years.

For all years of Credited Service earned on or after March 11, 2014, the monthly retirement benefit for Firefighter Members shall be two and three quarters percent of Average Final Compensation, regardless of the Firefighter Members' Credited Service.

Notwithstanding anything herein to the contrary, the benefits provided in this section shall not exceed 100 percent of a Firefighter Member's Final Average Compensation for those Firefighter Members who retire or enter DROP prior to March 11, 2014.

Effective March 11, 2014 for Firefighter Members and effective August 26, 2014 for Police Officer Members, the annual service retirement benefit based on the normal annuity form (life with 10 year certain) payable for Members shall not exceed the lesser of $90,000 or 90% of the Members' Average Final Compensation (hereinafter the "Benefit Cap"), provided, however, that under no circumstances shall a Member receive an amount of monthly retirement annuity which is less than two percent per year of the Member's Credited Service. The Benefit Cap will apply to the normal form of benefit. If an optional form of benefit is selected, the Benefit Cap will be adjusted to that it is actuarially equivalent to the normal form using the same actuarial factors as used to determine the amount of the optional form of benefit. The Benefit Cap shall apply to all Members except those Firefighter Members who entered the DROP before March 11, 2014 and those Police Officer Members who entered the DROP before August 26, 2014. For those Firefighter Members that reached the Benefit Cap prior to March 11, 2014 and for those Police Officer Members who reached the Benefit Cap prior to August 26, 2014, their cap shall be the amount of annual service retirement as calculated on March 10, 2014 for Firefighter Members and August 25, 2014 for Police Officer Members and they must continue to contribute into the Fund in the same manner as other Members.

* * *

(f) *Minimum benefit accrual*: Notwithstanding the foregoing, in no case shall benefits accrued under the System for: Firefighter Members be less than benefits accrued by such members as of March 10, 2014; and Police Officer Members be less than benefits accrued by such members as of August 25, 2014. Firefighter Members may elect to receive their respective March 10, 2014 benefit accrual and Police Officer Members may elect to receive their respective August 25, 2014 benefit accrual paid according to the terms and conditions applicable to that accrued benefit instead of benefits accrued under the System as amended thereafter.

Section 5. Village Code Amended. Article II "Police Officers and Firefighters Retirement Plan" of Chapter 23 "Retirement" of the Village of Key Biscayne Code of Ordinances is hereby amended by amending Section 2-56 "Firefighters' Share Plan" to read as follows:

Sec. 23-56 Firefighters' Share Plan.

(1) *Creation*; *purpose*. Pursuant to F.S. § 175.351(1)(a), the Village Council of the Village of Key Biscayne ~~hereby creates~~ created a trust fund to be known as the "Village of Key Biscayne Firefighters' Share Plan." The purpose of this Share Plan ~~is~~ was, prior to March 11, 2014, to place additional premium tax revenues pursuant to F.S. §§ 175.101 and 175.351 and earnings generated therefrom into a separate trust fund to pay extra benefits to Village firefighters who are participants in the Village of Key Biscayne Police Officers and Firefighters Retirement Plan as of January 1, 2009. On and after March 11, 2014, all premium tax revenues received pursuant to Chapter 175 shall be placed in the Plan and shall not be received by the Share Plan nor shall the Share Plan or any other person have any claim on the premium tax revenues. ~~In accordance with the provisions of F.S. § 175.351(1), this Share Plan has been approved by a majority of such participants.~~ The Share Plan hereby created shall be in addition to any other benefits under the Village of Key Biscayne Police Officers and Firefighters Retirement Plan and nothing herein shall in any way affect any other benefits that now or hereafter exist.

(2) *Definitions*. The following words and phrases shall, unless otherwise defined or required by the context, for the purpose of the share plan, have the meanings indicated below.

Account means the participant's share plan account credited with:

a. The initial allocation of unused premium tax revenues under subsection (3)a. hereof;
b. Subsequent annual allocation of additional premium tax revenues under subsection (3)b. hereof;
c. Allocations of forfeitures under subsection (3)c. hereof; and
d. The net investment return on the participant's share plan account in accordance with the participant's investment election pursuant to subsections (3)d, e, and f. hereof.

Additional Premium Tax Revenues means revenues received after January 1, 2009 by the Village pursuant to F.S. § 175.121 that exceed $235,255.00 per annum.

Beneficiary means any person designated by a participant to receive any benefits payable in the event of the participant's death. If no beneficiary designation is in effect at the participant's death, the participant's surviving spouse, if any, shall be deemed to be the beneficiary; otherwise the beneficiary shall be the participant's estate. A participant who retires on or after January 1, 2009 and before March 1, 2009 shall have 30 days from notification by the Board to designate a beneficiary.

A participant who retires after March 1, 2009 shall have 30 days from the participant's retirement date to designate a beneficiary.

Board means the board of trustees of the Village of Key Biscayne Police Officers and Firefighters Retirement Plan, who shall likewise serve as the board of trustees for this share plan. The board shall be the administrative board, which shall hold title to, supervise, administer and manage the assets of this share plan.

Effective Date means January 1, 2009 the date on which this share plan shall take effect.

~~*Extra Benefits* means benefits in addition to or greater than those provided to the general employees of the Village and in addition to those benefits in existence for firefighters who retired before January 1, 2009.~~

*Forfeitu*re means the termination of a participant's account under subsection (5) of this section.

IRC means the Internal Revenue Code of 1986 as same may be amended from time to time.

*Participan*t means an actively employed full-time firefighter with the Village on or before March 10, 2014, including a firefighter serving a probationary period, who is certified as a Firefighter as a condition of employment in accordance with the provisions of F.S. § 633.35, and whose duty it is to extinguish fires, to protect life and to protect property on or after January 1, 2009.

Retirement Plan means the Village of Key Biscayne Police Officers and Firefighters Retirement Plan, codified at Village Code Section 23-31 et seq.

Retirement Plan Board means the board of trustees of the Retirement Plan which serves as the administrative board thereof and holds title to, supervises, administers the Retirement Plan and manages the assets thereof.

Share Plan means the Village of Key Biscayne Firefighters' Share Plan as set forth herein.

Share Plan Year or Plan Year means each October 1 through September 30, commencing October 1, 2008.

State shall mean the State of Florida.

*Trust*ee means any member of the Board.

Unused Premium Tax Revenues means the revenues heretofore received by the Village pursuant to F.S. § 175.121 prior to January 1, 2009, that have not been used to provide extra benefits for Village Firefighters as of January 1, 2009.

Valuation Date or Annual Valuation Date means September 30th of any Share Plan Year. The Annual Valuation Date shall be the date upon which the fair market value of the assets of the Share Plan shall be determined.

Vested Participant means a participant with at least five years of credited service in the Retirement Plan.

Village means the Village of Key Biscayne, Florida.

Village Code means the Code of Ordinances of the Village of Key Biscayne as the same may be amended from time to time.

(3) Funding; allocation to accounts.

a. *Allocation of Unused Premium Tax Revenues*. Upon implementation of this Share Plan and as soon as practicable, the Board shall allocate to each Participant's account the Participant's per capita share of the Unused Premium Tax Revenues.

b. *Allocation of Additional Premium Tax Revenues Received for Calendar Year 2008 and* *For Premium Tax Revenues Received On Or Before March 10, 2014* ~~*thereafter*~~. Upon implementation of this Share Plan and as soon as practicable upon receipt by the Board of the Additional Premium Tax Revenues it receives under the provisions of F.S. § 175.121, the Board shall allocate to each Participant's account the Participant's per capita share of the Additional Premium Tax Revenues. The Village shall not be required to levy any additional taxes on its residents or to make any contributions to the Share Plan.

c. *Allocations of Forfeitures.* As of the Annual Valuation Date in each Share Plan Year, all amounts forfeited under subsection (5) since the preceding Annual Valuation Date shall be prorated and credited to the accounts of the individual Participants in the same manner as the allocations under subparagraph (b) above.

d. *Initial account investment election.* Upon implementation of this Share Plan or as soon as practicable, the Board shall establish a deadline for Vested Participants to submit initial investment elections for the remainder of the calendar year. Thereafter, each Participant upon becoming a Vested Participant, shall submit in writing, within 30 days, an irrevocable investment election for the remainder of the calendar year. If a Participant fails to submit a written investment election to the Board, then the default investment election for the Participant's Share Plan Account shall be as determined by the Board.

e. *Annual account investment election.* Each Vested Participant shall be required to make an annual investment election for the Participant's Share Plan Account among the investment options approved by the Board for Share Plan Accounts. Vested Participants shall, between November 15 and December 15 of each calendar year, submit the Participant's investment election to the Board for the succeeding calendar year. If a Participant fails to submit a written investment election to the Board by December 15, then the default investment election for the succeeding

calendar year for Participant's Share Plan Account shall be as determined by the Board.

f. *Account investment for non-Vested Participants.* A non-Vested Participant's Share Plan Account shall be invested as determined by the Board until such time as the participant becomes a Vested Participant and the Board receives an initial investment election in accordance with subsection (3)d. hereof.

g. *Payment of costs, expenses and fees.* All costs, expenses and fees of administering the Share Plan shall be paid from the assets of the Share Plan in such fashion as the Board shall determine. Any allocation to a Participant's Account shall be net of the Participant's share of the costs, expenses and fees of administering the Share Plan.

h. *Exclusive benefit rule.* No part of the assets of the Share Plan shall be used for or diverted to any purpose whatsoever other than for the exclusive benefit of Participants thereof in accordance with the terms hereof and paying the expenses of the Share Plan as provided in subsection (3)g. above. No person shall have any interest in or right to any part of the assets of the Share Plan except as and to the extent expressly provided in the Share Plan.

i. *Custody of fund assets.* The Board shall hold custody of Share Plan in trust solely for use in paying the benefits provided by the Share Plan in accordance with the terms hereof and paying expenses of the Share Plan as described in subsection (3)g. above.

j. *Maximum allocation limitation.* Notwithstanding any provision of this share plan to the contrary, the maximum amount allocated to the participant's or eligible beneficiary's account for any calendar year under the provisions of subsections (3)a. through (3)c. of this section shall not exceed the limitations set forth in IRC section 415 and any regulations issued thereunder.

(4) *Participation.*

a. *Establishment of Share Plan* Account. An Account shall be established for each eligible Participant subsequent to the effective date of this section.

b. *Distribution.* A vested Participant shall receive a distribution of his benefits from this Share Plan upon the Participant's commencement of retirement benefits under the Retirement Plan. The Participant's distribution shall be equal to the balance in his Account on the Participant's retirement date. A Participant shall receive his benefit in a single lump sum, as soon as practicable, unless he elects to receive his distribution in one of the following optional forms:

1. Equal annual payments over a period, designated by the Participant, not to exceed the life expectancy of the last to survive of the Participant and his Beneficiary. In the event the 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 Participant does not have a Beneficiary or if the Beneficiary has predeceased the Participant, to the Participant's estate. Upon written request of the 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.

2. An annuity.
3. An eligible rollover distribution paid directly to another qualified retirement plan.
4. A transfer to the Fund of the Retirement Plan in order to purchase the firefighter benefit enhancement set forth in subsection 23-36(e).

A written notice of election to receive payments 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.

c. *Termination of participation.* Every individual who is a Participant as of March 10, 2014 ~~the effective date~~ shall remain a Participant until death, termination of employment with the Village as a firefighter or retirement. The Board may require and rely upon such proof of death and such evidence of the right of any eligible Beneficiary to receive the value of the Account of a deceased Participant as the Board may deem proper and its determination of the right of that Beneficiary to receive payment shall be conclusive.

d. *Payment of benefits.* Benefits under this subsection (4) shall be payable as soon as possible following the payment date described in subsection (4)b. above. Acceptance of any partial or full payment of a Participant's Account as provided in this this subsection (4) shall be in full settlement of all claims of a Participant or Beneficiary against the Share Plan as to the partial or full payment received.

(5) *Forfeitures.*

a. *Forfeiture without cause.* If a Participant terminates his employment with the Village as a firefighter for any reason whatsoever prior to completing five years of credited service in the Retirement Plan, the Participant's Share Plan Account shall be forfeited and allocated to the accounts of all remaining Participants in accordance with the provisions of subsection (3)c. above.

b. *Forfeiture for cause.* Notwithstanding anything in the plan to the contrary, if a participant or beneficiary is convicted of a specified offense as set forth in F.S. § 112.3173, as same may be amended from time to time, or F.S. § 175.195, as same may be amended from time to time, the provisions of either F.S. § 112.3173 and F.S. § 175.195, as applicable, shall apply and the Participant or Beneficiary shall forfeit all rights to receive a benefit from the Share Plan. For purposes of this subsection (5)b., "convicted" and "specified offense" shall have the meanings given to them in either F.S. § 112.3173 or F.S. § 175.195, as may be applicable.

(6) *Miscellaneous provisions.*

a. *Village's responsibilities.* The Village shall have no responsibility for the operation of this Share Plan except those specified herein.

b. *Facility of payment.* If the Board finds that a Participant or other person entitled to a benefit is unable to care for his or her affairs or is a minor or is legally incapacitated, the Board may direct that any benefit due such individual shall be paid to the individual's duly appointed legal representative. Any payment so made shall be a complete discharge of the liabilities of this Share Plan for that benefit.

c. *Information.* Each Participant, Beneficiary or other person entitled to a benefit, before any benefit shall be payable to such individual or credited to the Participant's Account under the fund, shall file with the Board the information that it shall require to establish the individual's rights and benefits under the Share Plan.

d. *Severability of provisions.* If any provision of this Share Plan is for any reason held unconstitutional, inoperative or void, such holding shall not affect the remaining provisions of this Share Plan. It is the intent of the Village Council to create this Share Plan without such unconstitutional, inoperative or void provision and the remainder of the share plan, after the exclusion of such provision, shall be deemed and held to be valid as if such provision had not been included herein.

e. *Reports.* The Board shall issue a report of this Share Plan's operations at least annually.

f. *Reservations of right to amend Share Plan.* Subject to the provisions of F.S. Ch. 447, Pt. II, the Village reserves the right at any time to amend or modify this Share Plan, provided that no amendment shall cause any part of the Share Plan assets to be used or diverted to purposes other than the exclusive benefit of the Participants and their Beneficiaries.

g. *Termination and discontinuance.* Subject to the provisions of F.S. Ch. 447, Pt. II, this Share Plan may be terminated by the Village. Upon termination of this Share Plan, the Share Plan assets shall be apportioned and distributed in accordance with the allocation formulas set forth herein.

Section 6. **Severability.** 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 7. **Conflicts.** All ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

Section 8. **Inclusion In The Code.** It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and be 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 9. **Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 26th day of August, 2014.

PASSED AND ADOPTED on second reading this _____ day of _____, 2014.

_____
FRANK CAPLAN, MAYOR

ATTEST:

_____
CONCHITA H. ALVAREZ, MMC
VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

_____
VILLAGE ATTORNEY