VILLAGE OF KEY BISCAYNE

Village Council
Robert Oldakowski, *Mayor*
Robert L. Vernon, *Vice Mayor*
Enrique Garcia
Steve Liedman
Jorge E. Mendia
Thomas Thornton
Patricia Weinman

Date: October 19, 2005

To: The Honorable Mayor and Members of the Village Council

From: Jacqueline R. Menendez, Village Manager

Re: Ordinance Amending Police Officers and Firefighters Retirement Plan ("Plan")

BACKGROUND:

On September 27, 2005, the Village Council adopted Emergency Ordinance No. 2005-15 amending the Village Police Officers and Firefighters Plan (the "Plan") to set the employee's contribution rate at 10.5 percent. This amendment was necessary to preserve the Village's continued receipt of premium tax monies from the State. To remain in effect, your charter requires that ordinances adopted under emergency procedures be readopted under regular procedures. The enclosed proposed Ordinance is presented to you for that purpose. Upon adoption, the proposed Ordinance will supersede Emergency Ordinance No. 2005-15 and shall amend the Plan retroactive to October 1, 2000.

RECOMMENDATION:

It is recommended that the Village Council adopt the enclosed proposed Ordinance amending the Plan to set the employee's contribution rate at 10.5 percent, established pursuant to Section 23-35 of the Village Code. The proposed Ordinance will supersede Emergency Ordinance No. 2005-15.

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ORDINANCE NO. 2005-

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE VILLAGE OF KEY BISCAYNE, FLORIDA BY AMENDING CHAPTER 23 "RETIREMENT" AT SECTION 23-35 "CONTRIBUTIONS" TO SET THE EMPLOYEE CONTRIBUTION RATE AT 10.5%; PROVIDING THAT THIS ORDINANCE SHALL SUPERSEDE EMERGENCY ORDINANCE NO. 2005-15; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida, Division of Retirement has advised the Village of Key Biscayne ("Village") that in order to continue to qualify for receipt of premium tax money from the State it is necessary to amend its Police Officers and Firefighters Retirement Plan ("Plan") to set the employee's contribution rate at 10.5 percent; 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.** Section 23-35 "Contributions" of Chapter 23 "Retirement" of the Village Code is hereby amended to read as follows:[1]

Sec. 23-25. 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

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

percent of the Member's Salary. ~~From the Effective Date through September 30, 2000, each Member of the System shall be required to make regular contributions to the Fund in the amount of 14 percent of his Salary. This rate shall be adjusted each year thereafter to an amount equal to the total cost for the year (as shown by the most recent actuarial valuation of the System) less the amount of revenue received from the State pursuant to F.S. chs. 175 and 185; provided, however, that in no event shall the Member contribution rate be less than eight percent of Salary.~~ Each year after September 30, 2000 in which the Member contribution rate is eight percent of Salary and the total of such rate plus the State contribution exceeds the total cost for the year (as shown by the most recent actuarial valuation of the System) such excess shall be contributed to the Share Plan. 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.

(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.

(c) Village contributions. 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.

(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 3. **Supersede Emergency Ordinance No. 2005-15.** This Ordinance shall supersede Emergency Ordinance No. 2005-15 adopted on second reading on September 27, 2005.

Section 4. **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 5. **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 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 6. **Effective Date.** This Ordinance shall take effect retroactive to October 1, 2000, upon passage by the Village Council on second reading.

PASSED AND ADOPTED on first reading this 8th day of November, 2005.

PASSED AND ADOPTED on second reading this 22nd day of November, 2005.

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MAYOR ROBERT OLDAKOWSKI

ATTEST:

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CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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VILLAGE ATTORNEY