



August 2, 2018

Ms. Joan Wall  
Pension Administrator  
2955 Myrtle Oak Circle  
Davie, Florida 33328-6739

Dear Joan:

We have reviewed the proposed ordinance for the Village of Key Biscayne Police Officers and Firefighters Retirement Plan which would amend the plan by Amending Chapter 23 "Retirement", Section 23-35 "Contributions" to provide that the Plan will continue to meet statutory minimum benefits and standards under Chapters 175 and 185, Florida Statutes if a reduction in the Plan's benefit multiplier is automatically triggered under the terms of Section 23-35 (C)(2) of the Village Ordinance.

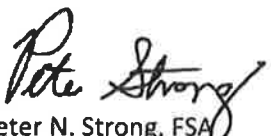
If the funded ratio of the Plan, determined using a 7.5% investment return assumption, falls below 80% in the future (triggering automatic reductions in the benefit multiplier), then this Ordinance may impact the liabilities/costs of the Plan in the future. However, this proposed change is not expected to have an impact on the current costs/liabilities of the Plan, so in our opinion a formal Actuarial Impact Statement is not required.

We recommend that you send a copy of this letter and the ordinance to the Municipal Police Officers and Firefighters' Retirement Trust Funds Office and to the Bureau of Local Retirement Systems.

Peter N. Strong is a member of the American Academy of Actuaries and meets the Qualification Standards of the American Academy of Actuaries to render the actuarial opinions contained herein. The undersigned actuary is independent of the plan sponsor.

If there are any questions, please let us know.

Sincerely yours,

  
Peter N. Strong, FSA  
Senior Consultant and Actuary

PS/ib

*The above communication shall not be construed to provide tax advice, legal advice or investment advice.*

MAYRA PENA LINDSAY, MAYOR

ATTEST:

JENNIFER MEDINA, MMC  
VILLAGE CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

Village with written notification prior to August 1<sup>st</sup> preceding the fiscal year following the date on which the funded ratio for the Police or Fire portion of the Fund falls below 80 percent based on an assumed rate of return of seven and one-half percent.

\* \* \*

**Section 3. 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 4. Conflicts.** All ordinances or parts of ordinances, resolutions or parts of Resolutions, in conflict herewith, are repealed to the extent of such conflict.

**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 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 6. Effective Date.** That this Ordinance shall be effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 28<sup>th</sup> day of August, 2018.

PASSED AND ADOPTED on second reading this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

statutory minimum benefits will be preserved to order to precipitate the State's distribution of withheld insurance premium tax rebates.

**NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:<sup>1</sup>**

**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 23-35 "Contributions" to read as follows:

**Sec. 23-35. - Contributions.**

\* \* \*

(C) *Village contributions.*

\* \* \*

- (2) Effective June 26, 2018 the minimum funded ratio (actuarial value of assets divided by the actuarial accrued liability) for the Police and Fire portions of the Fund shall be 80 percent based an assumed rate of return of seven and one-half percent. In the event the funded ratio for the Police or Fire portion of the Fund should fall below 80 percent based on an assumed rate of return of seven and one-half percent, 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 funded ratio at 80 percent. Alternatively, the Members of the portion of the Plan in which the funded ratio has fallen below 80 percent shall have the option of increasing their Member contribution or of making other design changes to that portion of the System in accordance with State law so that the funded ratio is at least 80 percent. Notwithstanding the foregoing, any prospective reductions in the System's multiplier shall not cause any member's benefits to drop below the minimum benefits described in Chapters 175 and 185, Florida Statutes. Should the Firefighter Members and/or Police Officer Members of the Plan wish to exercise either such alternative, the applicable unions representing the members of such groups must provide the

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<sup>1</sup> Words in ~~strikeout~~ type are deletions from existing text and words in underline type are additions.

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 23-35 “CONTRIBUTIONS,” TO PROVIDE THAT THE PLAN WILL CONTINUE TO MEET STATUTORY MINIMUM BENEFITS AND STANDARDS; 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 certified firefighters employed in the Village’s Police and Fire Departments; and

**WHEREAS**, the Village created local law plans under Chapters 175 and 185, Florida Statutes, and typically receives an annual distribution of insurance premium tax rebates from the State of Florida in accordance with such laws; and

**WHEREAS**, the State Division of Retirement has withheld the Village’s annual distribution of insurance tax rebates for each of the last two years because, among other things, the State expressed concern that the plan design could result in the benefits provided by the Retirement Plan falling below the statutory minimum benefit levels; and

**WHEREAS**, the Division has requested that the Village amend its pension ordinance to include language ensuring that the statutory minimum benefits will be preserved, irrespective of the design of the Retirement Plan, so that the withheld insurance premium tax revenues could be released to the Village; and

**WHEREAS**, it is necessary to amend the Retirement Plan ordinance to ensure that the



# WEISS SEROTA HELFMAN COLE & BIERMAN

AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW

## MEMORANDUM

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To: Mayor and Council, Village of Key Biscayne

From: Brett Schneider, Village Attorney

Date: August 28, 2018

Subject: State Premium Tax Revenue Rebate

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The Village maintains a Police and Fire Pension Plan (the "Plan") that complies with Chapters 175 and 185, Florida Statutes, and is eligible to receive state premium tax rebates each year which, by agreement with the Police and Fire Unions, the Village may use to offset its annual pension contributions. As previously advised, the state did not initially distribute to the Village the premium tax rebates to which the Village was entitled for 2016 and 2017. This memorandum will provide an update on that issue.

In order to receive premium tax rebates each year, the Plan is required to file a report with the state by March 15 of each year containing, among other things, a summary of the Plan's funding status as of that date. Assuming the report is approved by the state, premium tax dollars are typically distributed by summer or fall of that year. In 2016, the state changed the way it accepts the annual reports from pension plans; instead of plans submitting paper reports by mail, plans were required to upload their reports into the state's electronic portal.

In 2016, the Plan's administrator did not properly file the Plan's report in the electronic portal. As a result, the state initially withheld distribution of the premium tax rebates for that year, which would have been accounted for as a contribution for fiscal year 2017. The Village had to cover the shortfall in the actuarial required funding of the Plan for fiscal year 2017 in the amount of \$406,773.43 with the use of fund balance reserves. The state has now finally agreed to release the 2016 funds (\$140,927.10 for police and \$265,846.33 for fire) provided the Village gives the state a written commitment to amend its pension ordinance to add additional language insuring that the Plan provides its members with all of the state required minimum benefits (which it does) even if the Village contribution exceeds the agreed-upon cap or the funded ratio drops below the agreed-upon ratio. As such, I am working with the Plan attorney to provide the state with that assurance.

The Plan recently received a letter from the state providing that the 2017 rebate funds in the amounts of \$189,601.77 and \$274,524.08 are being withheld for the same reasons provided above. As such, we are working with the Plan's counsel so that the funds will be disbursed as soon as possible.

Please feel free to contact me if you have any questions.