

ORDINANCE NO. 13-22

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, FLORIDA, AMENDING THE VILLAGE CODE OF ORDINANCES AT CHAPTER 2. ADMINISTRATION; BY AMENDING EXHIBIT B TO SECTION 2-61. PENSION TRUST FUNDS, PUBLIC SAFETY OFFICERS' PENSION TRUST FUND; BY AMENDING SECTION 2, DEFINITIONS, TO AMEND THE DEFINITION OF CREDITED SERVICE TO PROVIDE FOR THE INCLUSION OF ACTIVE MILITARY SERVICE TIME OR TIME SERVED AS A FIREFIGHTER FOR ANOTHER GOVERNMENTAL EMPLOYER, TO CLARIFY VESTED DEFERRED RETIREMENT; BY AMENDING SECTIONS 8 AND 9 TO ADOPT PRESUMPTIONS OF FLORIDA STATUTES; BY AMENDING SECTION 14, DEFERRED RETIREMENT OPTION PLAN; SECTION 21, DISTRIBUTION OF BENEFITS; AND SECTION 22, MISCELLANEOUS PROVISIONS TO UPDATE PLAN TO INCORPORATE THE NEW REQUIRED MINIMUM DISTRIBUTION AGE OF 72; AMENDING SECTION 27, SERVICE PRIOR TO EMPLOYMENT, TO AMEND THE SECTION TO COMPLY WITH CHANGES THAT WERE COLLECTIVELY BARGAINED; PROVIDE FOR PROVIDING FOR A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AUTHORITY TO CODIFY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the Village of Tequesta ("Village") provides a defined benefit plan for its Police Officers and Firefighters, Village of Tequesta Public Safety Officers' Pension Trust Fund ("Fund");

WHEREAS, the Village and the Professional Firefighters/Paramedics of Palm Beach County, Local 2928, IAFF, Inc. ("Union") have entered into a collective bargaining agreement which expands the member's ability to purchase service and requires an amendment to the Fund plan document;

WHEREAS, the Board of Trustees of the Fund recommends that the Village Council amend the public safety officers' trust fund (the "Plan") based on recent Internal Revenue Code and State of Florida law changes;

WHEREAS, effective January 1, 2020, the Internal Revenue Code was amended by increasing the required minimum distribution age from 70½ to 72;

WHEREAS, changes to the Internal Revenue Code can happen quickly and frequently. There is a benefit in authorizing the Board of Trustees (the "Board") to make appropriate changes to the Plan in order to maintain the Plan's tax qualified status;

WHEREAS, the Florida Legislature, in recognition of this elevated cancer risk, has created a conclusive duty-related cancer presumption;

WHEREAS, the Village Council believes that these revisions to the Plan are in the best interest of the Village of Tequesta and Plan beneficiaries; and will promote the public health, safety, and welfare; and

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF TEQUESTA, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1: Chapter 2 of the Code of Ordinances of Village of Tequesta is hereby amended at 2-61 Pension Trust Funds, Exhibit B, the Public Safety Officers' Pension Trust Fund of the Village of Tequesta, and hereafter shall read as attached:

SECTION 2: All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

SECTION 3: Should any section or provisions of this Ordinance or any portion thereof, and paragraph, sentence or word be declared by a Court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder of this Ordinance.

SECTION 4: Specific authority is hereby granted to codify this Ordinance.

SECTION 5: This Ordinance shall become effective immediately upon adoption, except as otherwise provided for in the text of the amendment.

**EXHIBIT “B”
VILLAGE OF TEQUESTA
PUBLIC SAFETY OFFICERS’ PENSION TRUST FUND**

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EXHIBIT “B”

VILLAGE OF TEQUESTA

PUBLIC SAFETY OFFICERS’ PENSION TRUST FUND

Section 1. Creation of Pension Trust Fund.

The Village of Tequesta hereby creates and continues the Village of Tequesta Public Safety Officers’ Pension Trust Fund for the purpose of providing retirement, death and disability benefits to Police Officers and Firefighters who are Members of this Fund, certain former Village Police Officers and Firefighters and survivor benefits to beneficiaries. Effective March 14, 2019, all assets of the Village of Tequesta Police Officer Defined Contribution Pension Plan belonging to the transferred Members will become assets of this System.

This System is intended to be a tax qualified plan under Code Section 401(a) and meet the requirements of a governmental plan as defined by Code Section 414(d).

Section 2. Definitions.

1. Statement of Definitions. As used herein, unless otherwise defined or required by the context, the following words and phrases shall have the meaning indicated:

Accumulated Contributions means a Member’s own contributions without interest.

Actuarial Equivalent means a benefit or amount of equal value, based upon the RP-2000 1983 mortality table, and a 7.25% rate of interest. For Plan Years beginning after December 31, 2002 for purposes of Code Section 415(b), the mortality table is the table used under Code Section 417(e) as prescribed by the Secretary of the Treasury in Rev. Rul. 2001-62.

Average Final Compensation shall mean one-twelfth (1/12) of the average salary of the five (5) highest years of the last ten (10) years of credited service prior to retirement, termination, or death or the career average as a full time Firefighter or Police Officer, whichever is greater. A year shall be twelve (12) consecutive months.

Beneficiary means the person or persons entitled to receive benefits hereunder at the death of a Member who has or have been designated in writing by the Member and filed with the Board. If no designation is in effect, or if no person so designated is living, at the time of death of the Member, the beneficiary shall be the estate of the Member.

Board or Board of Trustees mean the Public Safety Board of Trustees, which shall administer and manage the System herein provided and serve as Trustees of the Fund for the benefit of Village Police Officers and Firefighters and their beneficiaries.

Chapter means Chapter 175 and 185 of the Florida Statutes as amended from time to time.

Code means the Internal Revenue Code of 1986, as amended from time to time.

Credited Service means the total number of years and fractional parts of years of service as a Police Officer, or Firefighter who makes member contributions to the Plan, omitting intervening years or fractional parts of years when such Police Officer or Firefighter may not have been employed by the Village of Tequesta. A plan member may voluntarily leave his/her contribution in the Fund for a period of five (5) years after leaving the employ of the Village of Tequesta pending the possibility of being rehired in a full-time position by the Village of Tequesta without losing credit for the time of active participation as a plan member. Should the employee not be re-employed with the Village of Tequesta in a full-time capacity within five (5) years, his/her contributions shall be returned to him/her without interest. Should a Police Officer or Firefighter be subsequently re-employed as such, he or she may re-purchase his or her years of credit or fractional parts of years of credit by reimbursing such returned contribution to the Fund, with interest.

The years or fractional parts of years that a Firefighter, or Police Officer serves in the military service of the Armed Forces of the United States or the United States Merchant Marine, voluntarily, upon being granted leave by the Village of Tequesta and separation from employment as a Village of Tequesta plan member, shall be added to his/her years of credited service for all purposes including vesting, provided that:

- A. The Firefighter or Police Officer must return to his/her full-time employment with the Fire Department or Police Department within one (1) year from the date of his/her military discharge in compliance with Code Section 414(u), effective December 12, 1994. Effective January 1, 2007, members who die or become disabled while serving on active-duty military service which intervenes the member's employment shall be entitled to the rights of this section even though such member was not re-employed by the Village. Members who die or become disabled while on active-duty military service

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shall be treated as though re-employed the day before the Member became disabled or died, was credited with the service they would have been entitled to under this section, and then either died a non-duty death while employed or became disabled from a non-duty disability.

B. The maximum credit for military service shall be five (5) years.

In accordance with the provisions of Section 27, Credited Service may include years and fractional parts of years that a Member has served in active duty military service prior to employment. FOR FIREFIGHTERS ONLY: Credited Service may include years and fractional parts of years that a Firefighter has served as a firefighter for some other governmental employer as long as the Firefighter is not entitled to receive a benefit for such prior service under another retirement plan. For purposes of determining credit for prior service as a firefighter, in addition to service as a firefighter in this state, credit may be given for federal, other state, or county service if the prior service is recognized by the Division of State Fire Marshal as provided in chapter 633, or the Firefighter provides proof to the board of trustees that his or her service is equivalent to the service required to meet the definition of a firefighter.

Effective Date means the date on which this Ordinance becomes effective.

Fire Department means the Tequesta Fire Department.

Firefighter means an actively employed full-time person employed by the Fire Department, including his/her initial probationary employment period, who is certified or required to be certified as a Firefighter as a condition of employment in accordance with the provisions of 633.35 Florida Statutes, including paramedic, and whose duty is to extinguish fires, to protect life and to protect property. The term Firefighter includes all certified, supervisory, and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters.

Fund or Pension Fund means the Trust Fund established herein as part of the System.

Member means an actively employed Police Officer or Firefighter that fulfills the applicable prescribed membership requirements.

Plan Year means the 12-month period beginning October 1 of each year and ending the following September 30.

Police Department means the Tequesta Police Department.

Police Officer means any person who is elected, appointed, or employed full time by the Village, who is certified or required to be certified as a law enforcement officer in

compliance with Florida Statute 943.1395, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in F.S. 943.10(6) and (8) respectively. Police Officer also shall include a public safety officer who is responsible for performing both police and fire services.

Public Safety Board means the Public Safety Board of Trustees provided hereunder to administer and manage Funds for the benefit of Public Safety Officers.

Public Safety Officers means Firefighters and/or Police Officers as defined in this document.

Salary or Compensation means for Firefighters and Police Officers hired before October 1, 2010, the total cash remuneration paid to a police officer or firefighter for services rendered including Base Pay, Bonuses, Career Service Annual Award, Holiday Pay, Incentives, Overtime (subject to the limitations in subsections 2 (a) and (b) below), Sick Leave and Vacation Leave Payout on Termination (subject to the limitations in subsections 2(a) and (b) below), Sick-Leave and Vacation Leave Buy Back (subject to the limitations in subsections 2(a) and (b) below), and Straight Time, and effective for payments made after 12/31/08, as provided for by Internal Revenue Code §414(u)(7), this definition of salary shall include any differential wage payment from the employer to a member as a result of the member's absence from employment while serving in qualified military service. This definition excludes pay received as a Car Allowance, Clothing Allowance and Shoe/Boot Allowance. The amount of compensation taken into account under the System may not exceed \$200,000. This amount is subject to adjustment as provided for in Code Section 401(a)(17), Code Section 415(d) and Section 19 of this Plan.

For firefighters hired on or after October 1, 2010, the definition of salary shall mean the fixed monthly remuneration paid to a firefighter for services rendered (including regular earnings, vacation pay, and sick pay) but shall exclude lump sum payments, overtime, bonuses, incentives, and longevity.

- (a) For firefighters, effective October 1, 2013, overtime included in Salary is limited to 300 hours per firefighter per year. Prior to October 1, 2013, all overtime for firefighters hired before October 1, 2010 is included in the definition of Salary. No hours of both unused accumulated sick leave and unused accumulated vacation leave earned after June 29, 2015 will be considered Salary, however, firefighters hired before October 1, 2010 may include all hours of unused sick leave and unused vacation leave earned as of June 29, 2015 provided that amount of hours is cashed in at retirement.
- (b) For police officers, effective October 1, 2014, overtime included in Salary is

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limited to 300 hours per police officer per year. Prior to October 1, 2014, for police officers hired before October 1, 2010, all overtime is included in the definition of Salary. No hours of both unused accumulated sick leave and unused accumulated vacation leave earned after October 1, 2014, will be considered Salary, however, Police Officer Members hired before October 1, 2010, may include all hours of unused sick leave and unused vacation leave earned as of September 30, 2014 provided that amount of hours is cashed in at retirement.

Spouse means the lawful wife or husband of a plan member at the time of pre-retirement, death or retirement.

Statement of Investment Policy means the written investment policy adopted by the Board pursuant to this Ordinance and F.S. 112.661, et seq., which shall apply to funds under the control of each board.

System means the Village of Tequesta Public Safety Officers' Pension Trust Fund as contained herein and all amendments thereto.

Vested deferred retirement means a Member **Police Officer regardless of date of hire or a Firefighter** hired on or before August 13, 2015 who leaves the employ of the Village with 6 or more years of credited service and who is not eligible for any other retirement benefit. Effective on and after August 13, 2015, ~~for the term means a Firefighter Member hired on or after August 13, 2015,~~ **the term means a Firefighter** who leaves the employ of the Village with 10 or more years of credited service and who is not eligible for any other retirement benefit. This benefit is payable at early or normal retirement.

Village means the Village of Tequesta, Florida.

2. Masculine Gender. The masculine gender, where used herein, unless the context specifically requires otherwise, shall include both the feminine and masculine genders.

Section 3. Membership.

1. Condition of Eligibility

All full time Police Officers and Firefighters as of the effective date of this Plan, and all future new full time Police Officers and Firefighters shall become Members of this System as a condition of employment, except that participation in this system is optional for the Police Chief and the Fire Chief.

2. Membership

Each full time Police Officer or Firefighter shall complete a form prescribed by the Board which may include the following information:

- A. Acceptance of the terms and conditions of the Retirement System, and,
- B. Designation of a beneficiary or beneficiaries, and,
- C. A certified statement as to prior medical and/or psychological history.

3. Change in Designation of Beneficiary

- A. A member may from time to time change his/her designated beneficiary by written notice to the Board upon forms provided by the Board. Upon such change, the rights of all previously designated beneficiaries to receive any benefits under the System shall cease.
- B. Any retired member may change the designated joint pensioner or beneficiary up to twice in accordance with Florida Statutes §175.333 and §185.341 without the approval of the board of trustees or the current joint pensioner or beneficiary. The retired member is not required to provide proof of the good health of the joint pensioner or beneficiary being removed, and the joint annuitant or beneficiary being removed need not be living. Any retired member who desires to change his or her joint pensioner or beneficiary shall file with the board of trustees a notarized notice of such change. Upon receipt of a completed change of joint pensioner form or such other notice, the board of trustees shall adjust the retired member's monthly benefit as provided for in Section 12 by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit and there is no impact to the Plan. The joint pensioner or beneficiary being removed will be assumed deceased by the actuary in determining the actuarially equivalent amount of the revised monthly payment. No retired member's current benefit shall be increased as a result of the change of joint pensioner or beneficiary. Any costs associated with these benefit calculations shall be borne by the retired member.

Section 4. Board of Trustees.

1. The sole and exclusive administration of and responsibility for the proper operation of the retirement system and for making effective the provisions of this ordinance is hereby vested in a Board of Trustees.

- A. The Public Safety Board shall consist of five (5) Trustees, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of the Village, who shall be appointed by the Tequesta Village Council, and one (1) of whom shall be a full-time Police Officer member of the System and one (1) of whom shall be a full-time Firefighter member of the System. The fifth (5th) Trustee shall be selected by a majority vote of the other four (4) Trustees. Each person seeking to fill a designated employee representative

Board member seat shall be separately elected by their full-time co-workers who are members of the System in the applicable employee representative group, e.g., Police Officer or Firefighter in which they are employed and shall be elected by a majority of the full-time employees who are Members of the System within the applicable employee representative group. Upon receipt of the fifth (5th) person's name the Tequesta Village Council shall, as a ministerial duty, appoint such person to the Public Safety Board as its fifth (5th) Trustee. The fifth (5th) Trustee shall have the same rights as each of the other Trustees appointed or elected as herein provided and shall serve a two (2) year term unless the office is sooner vacated and may succeed himself or herself in office. Each resident Trustee shall serve as Trustee for a period of two (2) years unless sooner replaced by the Tequesta Village Council at whose pleasure the Trustee shall serve, and may succeed himself or herself as a Trustee. Each Police Officer or Firefighter Trustee shall serve as Trustee for a period of two (2) years, unless he/she sooner leaves the employment of the employee representative group he/she was elected to represent or otherwise vacates his/her office as Trustee, whereupon a successor shall be chosen in the manner as the departing Trustee. Each employee representative Trustee may succeed himself or herself in office.

- B. Whenever the active police officer or firefighter membership falls below 10, an active police officer or firefighter trustee member seat may be held by either a retired police officer or retired firefighter, as applicable or an active police officer member of the plan who is elected by the active and retired members of the plan. If there are no active or retired police officers remaining in the plan or capable of serving, the remaining board members may elect an individual to serve in the active police officer member seat. Upon receipt of such person's name, the legislative body of the municipality shall, as a ministerial duty, appoint such person to the board of trustees.
- C. The Public Safety Board shall meet at least quarterly each year. Such Boards shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature, and description.

2. The Board shall, by majority vote, elect a chairman and secretary. The secretary of the Board shall keep, or cause to be kept, a complete minute book of the actions, proceedings, or hearings of the Board and shall preside over Board meetings in the absence of the Chairman. The Trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

3. Each Trustee shall be entitled to one vote. Three (3) affirmative votes shall be necessary for any decision by the Trustees at any meeting of the Board. A Trustee shall have the right to abstain from voting as the result of a conflict of interest provided that Trustee states in writing the nature of the conflict complies with the provisions of Section 112.3143, Florida Statutes.

4. The Board of Trustees shall engage such actuarial, accounting, legal, and other services as shall be required to transact the business of the Retirement System to administer and manage their funds and to meet the requirements of applicable law. The compensation of all persons engaged by the Board of Trustees and all other expenses of the Board necessary for the operation of the Retirement System shall be paid from the Fund they administer and manage at such rates and in such amounts as the Board of Trustees shall approve.

5. The duties and responsibilities of the Board of Trustees shall include, but not necessarily be limited to, the following:

- A. To construe the provisions of the System and determine all questions arising thereunder.
- B. To determine all questions relating to eligibility and participation.
- C. To determine and certify the amount of all retirement allowances or other benefits hereunder.
- D. To establish uniform rules and procedures to be followed for administrative purposes, benefit applications and all matters required to administer the System.
- E. To distribute to Members, at regular intervals, information concerning the System.
- F. To receive and process all applications for participation and benefits.
- G. To authorize all payments whatsoever from the Fund and to notify the disbursing agent, in writing, of approved pension payments and other expenditures arising through operation of the System and the Fund.
- H. To have performed actuarial studies in accordance with Florida Statute 112.63 providing a copy of the same to the Division of Retirement, and with at least biennial valuations, and make recommendations regarding and all changes in the provisions of the System.
- I. Ensure compliance with Article X, Section 14, of the Florida Constitution, requiring that any increase in benefits be funded on an actuarially sound basis.
- J. Ensure the completion of an actuarial impact statement prior to the adoption of a change in the plan's retirement benefits, a copy of which must be provided to the Division of Retirement.
- K. To comply with the Chapters.

- L. To ensure the funds and assets for the benefit of the employee groups they serve are segregated and separated from the funds and assets under the control of the Board.
- M. To perform such other duties as are specified in this Ordinance and generally do all acts which the Trustees may deem necessary or desirable for the protection of the Trust Fund.
- N. To adopt and be guided by Statements of Investment Policy applicable to all funds under the control the Public Safety Board of Trustees as required from time to time by F.S. 112.661, et seq., and/or its successor statutes.
- O. To sue or be sued.
- P. To settle, compromise or submit to arbitration (at the sole discretion of the Trustees) any claims, debts or damages due or owing to or from the Fund.

Section 5. Finance And Fund Management.

Establishment and Operation of Fund

1. As part of the System, there is hereby established a Fund, into which shall be deposited all of the contributions and assets whatsoever attributable to the System, for the benefit of Public Safety Officers to be administered and managed by the Public Safety Board.

2. The actual custody and supervision of the Fund (and assets thereof) shall be vested in the Board of Trustees. Payment of benefits and disbursements from the Fund shall be made by the Village as the Board's agent, but only upon written authorization from the Board. Such written authorization shall require the signature of two of the Trustees or other Board authorized fiduciary.

3. All funds and securities of the Fund may be deposited by the Board of Trustees with the Treasurer of the Village, acting in a ministerial capacity only, who shall be liable in the same manner and to the same extent that as he is liable for the safekeeping of funds for the Village. However, any funds and securities so deposited with the Treasurer of the Village shall be kept in separate funds by the Treasurer or clearly identified as such funds and securities of the Public Safety Officer Trust Fund. In lieu thereof, the Board of Trustees shall deposit the funds and securities of the Fund in a qualified public depository or depositories as defined in Section 280.02, Florida Statutes, which depository or depositories with regard to such funds and securities shall conform to and be bound by all of the provisions of Chapter 280, Florida Statutes.

4. In order to fulfill its investment responsibilities as set forth herein, the Boards may retain the services of a custodian bank or banks, an investment advisor or advisors

registered under Investment Advisors Act of 1940 or otherwise exempt from such required registration, an insurance company, or a combination of these, for the purposes of investment decisions and management. Such investment manager or managers shall have discretion, subject to any guidelines as prescribed by the Board, in the investment of all fund assets.

5. All funds and securities of the System shall be accounted for separately based upon the two (2) applicable employee classes within the Fund namely, the Police Officers and Firefighters in the Public Safety Officers Trust Fund. Accurate records shall be maintained at all times reflecting the financial composition of the Fund and of the accounts in place to segregate the assets of the employee classes covered by the System, including accurate current accounts and entries as regards the following:

- A. Current amounts of Accumulated Contributions of Members on both an individual and aggregate account basis, and
- B. Receipts and disbursements, and
- C. Benefit payments, and
- D. Current amounts clearly reflecting all moneys, funds and assets whatsoever attributable to contributions and deposits from the Village, County or State, and
- E. All interest, dividends and gains (or losses) whatsoever, and
- F. Such other entries as may be properly required so as to reflect a clear and complete financial report of the Fund.
- G. Such other entries as required by the Chapters.

6. An independent audit shall be performed annually by a certified public accountant for the most recent fiscal year of the Village showing a detailed listing of assets and a statement of all income and disbursements during the year for each Fund. Such income and disbursements must be reconciled with the assets at the beginning and end of the year. Such report shall reflect complete evaluations of assets on both a cost and market basis, as well as other items normally included in a certified audit.

7. The Board of Trustees shall have the following investment powers and authority:

- A. The Board of Trustees shall be vested with full legal title to the Fund, subject, however, and in any event to the authority and power of the Tequesta Village Council to amend or terminate this Trust, provided that no amendment or Fund termination shall ever result in the use of any assets of the Fund except for the payment of regular expenses and benefits under this System. All contributions from time to time paid into the Fund, and the

income thereof, without distinction between principal and income, shall be held in the Fund and administered by the Board or its Agents.

B. All moneys paid into or to be held shall be invested and reinvested by the Board and the investment of all or any part of such funds shall be limited to:

(1) Annuity and life insurance contracts of life insurance companies in amounts sufficient to provide, in whole or in part, the benefits to which all of the participants in the Fund shall be entitled under the provisions of the Plan and pay the initial and subsequent premium thereon.

(2) Time or savings accounts of a national bank, a state bank insured by the Bank Insurance Fund, or a savings and loan association insured by the Savings Association Insurance Fund which is administered by the Federal Deposit Insurance Corporation or a state or federal chartered credit union whose share accounts are insured by the National Credit Union Share Insurance Fund.

(3) Obligations of the United States or obligations guaranteed as to principal and interest by the government of the United States.

(4) Bonds, stocks, commingled or other pooled funds, which may include mutual funds or exchange-traded funds or trusts, except as provided in paragraph M below, or evidences of indebtedness issued or guaranteed by a corporation organized under the laws of the United States, any state or organized territory of the United States, or the District of Columbia, provided that the corporation is traded on a nationally recognized Exchange and in the case of bonds only holds a rating in one of the four highest classifications by a major rating service, and if such investments are held in a pooled fund then the rating of each issue in the pooled fund shall hold a rating within the top four (4) rating classifications of a major rating service, except that 5% of the total market value of the portfolio may be invested in securities that are below these rating guidelines and all securities must maintain at least a "B" rating at the time of purchase by a nationally recognized rating organization.

(5) Real estate.

(6) Up to 25% of Plan assets may be invested in foreign securities. Additionally, the value of bonds denominated in US dollars that are issued by a foreign bank or corporation (Yankee Bonds) shall not exceed 5% of the total fund.

(7) All monies paid into or held in the Pension Fund shall be invested and reinvested by the Board of Trustees and the investment of all or any part of such funds shall be invested in accordance with an established investment policy adopted by the Board of Trustees.

- C. The Board of Trustees shall not invest more than five percent (5%) of its assets in the common stock or capital stock of any one issuing company, nor shall the aggregate investment in any one issuing company exceed five percent (5%) of the outstanding capital stock of that company; nor shall the aggregate of its investments in common stock, capital stock and convertible bonds at market exceed seventy percent (70%) of the assets of the Fund. Additionally, the value of bonds issued by any single corporation shall not exceed 5% of the total fund.
- D. The Board of Trustees may retain in cash and keep unproductive of income such amount of the Fund as it may deem advisable, having regard for the cash requirements of the System.
- E. No person or entity shall be liable for the making, retention or sale of any investment or reinvestment made as herein provided, nor for any loss or diminishment of the Fund, except that due to his/her or its own negligence, willful misconduct or lack of good faith.
- F. The Board may cause any investment in securities held to be registered in or transferred into their name as Trustee or into the name of such nominee as they may direct, or they may retain them unregistered and in form permitting transferability, but the books and records shall at all times show that all investments are part of the Trust Fund.
- G. The Board is empowered, to vote upon any stocks, bonds or securities of any corporation, association, or trust and to give general or specific proxies or powers of attorney with or without power of substitution; to participate in mergers, reorganizations, recapitalization, consolidations and similar transactions with respect to such securities; to deposit such stock or other securities in any voting trust or any protective or like committee with the Trustees or with depositories designated thereby; to amortize or fail to amortize any part of all of the premium or discount resulting from the acquisition or disposition of assets; and generally to exercise any of the powers of an owner with respect to stocks, bonds, or other investments comprising the Fund which it may deem to be the best interest of the Fund to exercise. This responsibility may be delegated to an Agent for the Board.
- H. The Board shall not be required to make any inventory or appraisal or report to any court, nor secure any order of court for the exercise of any power contained herein.
- I. Where any action which the Board is required to take on any duty or function which it is required to perform either under the terms herein or under the general law applicable to it as Trustee under this Ordinance, can reasonably be taken or performed only after receipt by it from a Member, the Village, the Department or any other entity, of specific information, certification,

direction or instructions, the Board shall be free of liability in failing to take such action or perform such duty or function until such information, certification, direction or instruction has been received by it.

- J. Any overpayments or underpayments from a Fund to a Member or beneficiary caused by errors of computation shall be adjusted with interest at a rate per annum approved by the Board. Overpayment shall be charged against member's payments next succeeding the correction. Underpayments shall be made up from the Trust Fund.
- K. The Board shall sustain no liability whatsoever for the sufficiency of a Fund to meet the payments and benefits herein provided.
- L. Any of the foregoing powers and functions reposed in the Board may be performed or carried out by the Board through duly authorized Agents, provided that the Board at all times maintains continuous supervision over the acts of any such Agent; provided further, that legal title to the Fund shall always remain in the Board of Trustees.
- M. A Board shall not invest more than ten percent (10%) at cost of its assets in real property or real estate and there shall be no real estate investment in a closed-ended limited partnership or a closed-ended trust. In addition, any investments in real estate in open ended limited partnerships or open-ended trusts are limited to those open-ended core real estate products which meet the criteria for the NCREIF ODCE.
- N. The Village shall maintain Fiduciary Liability insurance to cover the members of the Board of Trustees.
- O. With respect to any investment, the Trustees may consent or object to any action or non-action of any corporation or of the directors, officers or stockholders of any corporation.
- P. Notwithstanding anything else in this subsection and as provided in Florida Statutes §215.473, the board of trustees must identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in that section. Beginning January 1, 2010, the Board must proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have directly in that company. The divestiture of any such security must be completed by September 10, 2010. The board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the participants of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by Florida Statutes §215.473, as provided for in Florida Statutes 185.06(7) / 175.071(8) and the manner of the disposition, if any, is reasonable as to

the means chosen. For purposes of determining which companies are scrutinized companies, the Board may utilize the list of scrutinized companies as developed by the Florida State Board of Administration. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this subsection.

Section 6. Contributions.

1. Member Contributions

A. Amount.

Firefighters Members:

Effective with the payroll period that includes October 1, 2016, the Firefighter Members shall be required to make regular contributions to the Fund in the amount of five and one-half (5.5) percent.

Effective with the payroll period including October 1, 2017, the Firefighter Members shall be required to make regular contributions to the Fund in the amount of six (6) percent.

For the period between October 9, 2008 and the payroll period that includes October 1, 2016, the Firefighter Member contributions were five (5) percent. During the period between June 8, 2005 and October 9, 2008, the Firefighter Member contribution was six and one tenth (6.1) percent and the funding for the difference between the previously required contribution of 6.1% and the now required 5% shall be made up from the monies received from the State pursuant to Chapter 175, F.S. Should the Chapter 175 money ever become insufficient to make up the difference, the contribution rate for Firefighter Members shall automatically revert to 6.1%.

If, after October 1, 2016, the Village determines to opt out of participation in the distribution of the Chapter 175 money or acts to cause the State of Florida to stop issuing the Chapter 175 money to the Fund, then the employee contribution rate will immediately decrease to five (5) percent.

Police Officer Members:

Police Officer Members of the Retirement System hired before February 1, 2013 shall be required to make regular contributions to the Fund in the amount of five percent (5%) of his/her salary.

Effective with the payroll period that includes February 1, 2013, the Police Officer Members hired on or after February 1, 2013 shall be required

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to make regular contributions to the Fund in the amount of six percent (6%) of his/her salary.

Any additional amounts added to the Member's Share account balances as provided in Section 28(3) of this Plan will be considered Member Contributions for service purchase.

Member contributions withheld by the Village on behalf of the Member shall be deposited with the Board of Trustees immediately after the withholding of such contributions. The contributions made by each Member to the Fund shall be designed as employer contributions pursuant to Section 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 Plan, such contributions shall be considered to be Member contributions.

- B. Method. Such contributions shall be made by payroll deduction.
- C. Any excess annual additions shall be placed in an unallocated suspense account.

2. 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 Officers or Firefighters shall be deposited with the applicable segregated account in the Trust Fund comprising part of this System immediately and under no circumstances more than five (5) days after receipt by the Village.

3. Village Contributions

So long as this System is in effect, the Village shall make contributions at least quarterly to the Trust Fund in an amount equal to the normal cost and the amount required to fund any actuarial deficiency shown by an actuarial valuation as provided in Part VII of Chapter 112, Florida Statutes.

Effective for the Chapter 175 Funds received beginning in calendar year 2015, by mutual consent, all of the Chapter 175 money will be used to reduce the Village's required contributions to the Fund. Additionally, all of the accumulated reserved Chapter 175 money as of August 13, 2015 shall be used to offset the Village's contribution. The Village may determine to use this offset in either the 2014-2015 or 2015-2016 fiscal years.

Effective for the Chapter 185 Funds received beginning in calendar year 2013, by mutual consent, all of the Chapter 185 money will be used to reduce the Village's required contributions to the Fund. One-half of the accumulated unused 185 money as of September 30, 2014 shall be allocated to the Police Officer Members who are in the Plan on January 1, 2019.

4. Other

Private donations, gifts and contributions may be deposited to the Fund, but such deposits must be kept separately and kept on a segregated bookkeeping basis. Funds arising from these sources shall be reserved exclusively for additional benefits for Members, and shall be reserved to be spent for the additional benefits as determined by the Board of Trustees when specifically provided for by this plan document, and may not be used to reduce what would have otherwise been required by Village contributions.

Section 7. Benefit Amounts and Eligibility.

1. Normal Retirement Date

A. Firefighter Members hired before August 13, 2015 and Police Officer Members regardless of date of hire:

A Member's normal retirement date shall be the first day of the month coincident with, or the next following the earlier of:

- (1) attainment of age fifty-five (55) and the completion of six (6) years of credited service, or
- (2) attainment of age fifty-two (52) and the completion of twenty-five (25) years of credited service.

A Member may retire on his/her normal retirement date or on the first day of any month thereafter, and each Member shall become 100% vested in his/her accrued benefit on the Member's normal retirement date. Normal retirement under the Plan is retirement from employment with the Village of Tequesta as a Police Officer or Firefighter on or after the normal retirement date.

B. Firefighter Members hired on and after August 13, 2015:

A Member's normal retirement date shall be the first day of the month coincident with, or the next following the earlier of:

- (1) attainment of age fifty-five (55) and the completion of ten (10) years of credited service, or
- (2) attainment of age fifty-two (52) and the completion of twenty-five (25) years of credited service.

A Member may retire on his/her normal retirement date or on the first day of any month thereafter, and each Member shall become 100% vested in

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his/her accrued benefit on the Member's normal retirement date. Normal retirement under the Plan is retirement from employment with the Village of Tequesta as a Firefighter on or after the normal retirement date.

2. Normal Retirement Benefit

Firefighter Member hired before October 1, 2010 and Police Officer Members hired before February 1, 2013:

A Firefighter Member who was hired before October 1, 2010 and Police Officer Members hired before February 1, 2013, and who are retiring hereunder on or after his/her normal retirement date shall receive a monthly benefit which shall commence on his/her Retirement Date and be continued thereafter during the Member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. The retirement benefit multiplier for credited service up to August 13, 2015 shall equal:

- 3.0% for the first 6 years of service
- 3.5% for the next 4 years of service
- 4.0% for the next 5 years of service
- 3.0% for the next 6 years of service
- 2.0% for the next 4 years of service
- 3.0% for all years after 25 years

Notwithstanding the above schedule, Firefighters hired before October 1, 2010 with credited service after August 13, 2015, shall have a 3% retirement benefit multiplier for all future years of service beginning the first day of the first month beginning on or after August 13, 2015.

Firefighter Members hired on and after October 1, 2010 but before August 13, 2015:

A Firefighter who was hired on and after October 1, 2010 but before August 13, 2015 and who is retiring hereunder on or after his/her normal retirement date shall receive a monthly benefit which shall commence on his/her Retirement Date and be continued thereafter during the Member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. The retirement benefit multiplier for service rendered up to August 13, 2015 shall equal 2.75%.

Firefighters hired on and after October 1, 2010 but before August 13, 2015 with credited service after August 13, 2015, shall have a 3% retirement benefit multiplier for all future years of service beginning the first day of the first month on or after August 13, 2015.

Firefighter Member hired on and after August 13, 2015:

A Firefighter who was hired on and after August 13, 2015 and who is retiring

hereunder on or after his/her normal retirement date shall receive a monthly benefit which shall commence on his/her Retirement Date and be continued thereafter during the Member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. The retirement benefit multiplier shall equal 2.75% for all years of service.

Police Officer Member hired on and after February 1, 2013:

A Police Officer who was hired on and after February 1, 2013 and who is retiring hereunder on or after his/her normal retirement date shall receive a monthly benefit which shall commence on his/her Retirement Date and be continued thereafter during the Member's lifetime, ceasing upon death, but with one hundred twenty (120) monthly payments guaranteed in any event. The retirement benefit multiplier shall equal 2.75% for all years of service

3. Early Retirement Date

A Police Officer Member regardless of date of hire and a Firefighter Member hired before August 13, 2015 may retire on his/her early retirement date which shall be the first day of any month coincident with or next following the later of the attainment of age fifty (50) and the completion of six (6) years of credited service. Early retirement under the Plan is retirement from employment with the Village of Tequesta on or after the early retirement date and prior to the normal retirement date.

A Firefighter Member hired on or after August 13, 2015 may retire on his/her early retirement date which shall be the first day of any month coincident with or next following the later of the attainment of age fifty (50) and the completion of ten (10) years of credited service. Early retirement under the Plan is retirement from employment with the Village of Tequesta on or after the early retirement date and prior to the normal retirement date.

4. Early Retirement Benefit

A Member retiring hereunder on his/her early retirement date may receive either a deferred or an immediate monthly retirement benefit payable for life, but with one hundred twenty (120) monthly payments guaranteed in any event, as follows:

- A. deferred monthly retirement benefit which shall commence on what would have been his/her normal retirement date had he/she remained a Police Officer or Firefighter and shall be continued on the first day of each month thereafter. The amount of each such deferred monthly retirement benefit shall be determined in the same manner as for retirement as his/her normal retirement date except that credited service and average final compensation shall be determined as of his/her early retirement date; or
- B. immediate monthly retirement benefit which shall commence on his/her early retirement date and shall be continued on the first day of each month thereafter. The benefit payable shall be as determined in paragraph A

above, which is actuarially reduced from the amount to which he/she would have been entitled had he/she retired on his/her normal retirement date and with the same number of years of credited service as at the time his/her benefit commence and based on his/her average final compensation at that date. In no event shall the early retirement reduction exceed three percent (3%) for each year by which the commencement of benefits precedes the Member's normal retirement date.

Section 8. Pre-retirement Death.

If a plan member dies prior to retirement from the Village of Tequesta his/her beneficiary shall receive a benefit as follows:

- A. Line-of-Duty-Death-Benefit is a pension to the spouse (or children) for life in the amount of 50% of Average Final Compensation. **For purposes of determining whether a member dies as a direct result of an occurrence arising in the performance of duty, the following presumptions shall apply:**
 - (1) **Rebuttable presumptions.** The provisions of Sections 112.18, 112.181, 175.231 and 185.34, Fla. Stat., are hereby codified within the Plan and are intended to be incorporated by reference. The Board of Trustees may adopt uniform administrative rules for the conduct of disability hearings resulting relating to these rebuttable presumptions and for the determination of any disqualifying events reflected in Chapters 112, 175 and 185, Fla. Stat.
 - (2) **Non-rebuttable conclusive cancer presumption for Firefighters only.** The provisions of Section 112.1816, Fla. Stat., are hereby codified within the Plan and are intended to be incorporated by reference. The Board of Trustees may adopt uniform administrative rules relating to this presumption and for the determination of any disqualifying events as reflected in Chapters 112 and 175, Fla. Stat.
- B. Non-Line-of-Duty-Death-Benefit - the spouse of a Firefighter Member hired before August 13, 2015 with 6 years of credited service or the spouse of a Police Officer Member regardless of date of hire with 6 years of credited service will receive the actuarial equivalent of the accrued normal retirement benefit. If the Firefighter Member was hired on or after August 13, 2015, then in order for the spouse to receive the actuarial equivalent of the accrued normal retirement benefit the Firefighter Member will need to have ten (10) years of credited service.
- C. In lieu of the benefits provided in A or B above, the beneficiary of a police officer regardless of date of hire or firefighter hired before August 13, 2015,

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with 6 or more years of service who dies prior to retirement, may receive the benefits otherwise payable to the police officer/firefighter at what would have been his/her early or normal retirement date.

- D. In lieu of the benefits provided in A or B above, the beneficiary of a firefighter hired after August 13, 2015, with 10 or more years of service who dies prior to retirement, may receive the benefits otherwise payable to the firefighter at what would have been his/her early or normal retirement date.

Section 9. Disability.

1. Disability Benefits On-Duty

Each full time employee who is a participant in the Pension Fund System and who becomes totally and permanently disabled while an active employee of the Village of Tequesta to the extent that he/she is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Police Officer or Firefighter, as was provided by the employee in their classification (Police Officer or Firefighter) prior to the alleged impairment, which disability was directly caused by the performance of his/her duty as a Police Officer or Firefighter shall upon establishing the same to the satisfaction of the Board, be entitled to:

- A. If the injury or disease is service connected, the employee shall be entitled to the greater of (1) or (2):

- (1) a monthly pension equal to 42% of his/her average monthly compensation as of his/her disability retirement date, or
- (2) the accrued Normal Retirement Benefit.

Any condition or impairment of health of Police Officer or Firefighter caused by tuberculosis, hypertension hepatitis, meningococcal meningitis or heart disease shall be presumed to have been suffered in the line of duty unless the contrary is shown by competent evidence, provided that such Police Officer or Firefighter shall have successfully passed a physical examination upon entering into such service, including cardiogram, which examination failed to reveal any evidence of such condition; and provided further, that such presumption shall not apply to benefits payable or granted in a policy of life insurance or disability insurance. In order to be entitled to the presumption in the case of hepatitis, meningococcal meningitis, or tuberculosis the member must meet the requirements of Section 112.181, Florida Statutes by verifying by written affidavit that, to the best of his or her knowledge and belief:

- (1) In the case of a medical condition caused by or derived from hepatitis, he or she has not:

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- (a) Been exposed, through transfer of bodily fluids, to any person known to have sickness or medical conditions derived from hepatitis, outside the scope of his or her employment;
 - (b) Had a transfusion of blood or blood components, other than a transfusion arising out of an accident or injury happening in connection with his or her present employment, or received any blood products for the treatment of a coagulation disorder since last undergoing medical tests for hepatitis, which tests failed to indicate the presence of hepatitis;
 - (c) Engaged in unsafe sexual practices or other high-risk behavior, as identified by the Centers for Disease Control and Prevention or the Surgeon General of the United States, or had sexual relations with a person known to him or her to have engaged in such unsafe sexual practices or other high-risk behavior; or
 - (d) Used intravenous drugs not prescribed by a physician.
- (2) In the case of meningococcal meningitis, in the 10 days immediately preceding diagnosis he or she was not exposed, outside the scope of his or her employment, to any person known to have meningococcal meningitis or known to be an asymptomatic carrier of the disease.
 - (3) In the case of tuberculosis, in the period of time since the worker's last negative tuberculosis skin test, he or she has not been exposed, outside the scope of his or her employment, to any person known by him or her to have tuberculosis.
 - (4) Whenever any standard, medically recognized vaccine or other form of immunization or prophylaxis exists for the prevention of a communicable disease for which a presumption is granted under this section, if medically indicated in the given circumstances pursuant to immunization policies established by the Advisory Committee on Immunization Practices of the United States Public Health Service, a Member may be required by his or her employer to undergo the immunization or prophylaxis unless the worker's physician determines in writing that the immunization or other prophylaxis would pose a significant risk to the worker's health. Absent such written declaration, failure or refusal by a Member to undergo such immunization or prophylaxis disqualifies the Member from the benefits of the presumption.

- B. Non-rebuttable conclusive cancer presumption for Firefighters only. The provisions of Section 112.1816, Fla. Stat., are hereby codified within the Plan and are intended to be incorporated by reference. The Board of Trustees may adopt uniform administrative rules for the conduct of hearings relating to this presumption and for the determination of any disqualifying events as reflected in the statute.**

2. Disability Benefits Off-Duty

Every Police Officer or Firefighter who is a participant in the Pension Fund System who shall have become totally and permanently disabled to the extent that he/she is unable, by reason of a medically determinable physical or mental impairment, to render useful and efficient service as a Police Officer or Firefighter which disability is not directly caused by the performance of his/her duties as a Police Officer or Firefighter shall be entitled the greater of A. or B.:

- A. A monthly pension equal to 25% of his/her average monthly compensation as of his/her disability retirement date, or
- B. The accrued Normal Retirement Benefit.

3. Conditions Disqualifying Disability Benefits

Each Police Officer or Firefighter who is claiming disability benefits shall establish, to the satisfaction of the Board, that such disability was not occasioned primarily by:

- A. Excessive or habitual use of any drugs, intoxicants or alcohol.
- B. Injury or disease sustained while willfully and illegally participating in fights, riots or civil insurrections.
- C. Injury or disease sustained while committing a crime.
- D. Injury or disease sustained while serving in any branch of the Armed Forces. This exclusion does not affect members who have become disabled as a result of intervening military service under the federal Heroes Earnings Assistance and Relief Tax Act of 2008 (H.R. 6081; P.L. 110-245).
- E. Injury or disease sustained after his/her employment shall have terminated as a Police Officer with the Tequesta Police Department or a Firefighter with the Tequesta Fire Department.
- F. Injury or disease sustained by a Police Officer, while working for anyone other than the Tequesta Police Department and arising out of such

employment.

- G. Injury or disease sustained by the member before employment with the Village begins. This subparagraph applies only in the event of a duty injury or disease.

4. Physical Examination Requirement

An employee shall not become eligible for disability benefits until and unless he/she undergoes a physical examination by a qualified physician or physicians and/or surgeons, who shall be selected by the Board for that purpose.

Any person receiving disability benefit under provisions of this Ordinance may be periodically re-examined by a qualified physician or physicians and/or surgeon or surgeons who shall be selected by the Board, to determine if such disability has ceased to exist. If the Board finds that the retiree is no longer permanently and totally disabled to the extent that he/she is unable to render useful and efficient service as a Police Officer or a Firefighter, the Board shall recommend to the Village that the retiree be returned to their previous performance of duty as a Police Officer or Firefighter, and the retiree so returned shall enjoy the same rights that Member had at the time he/she was placed upon pension. In the event the retiree is so ordered to return shall refuse to comply with the order within thirty (30) days from the issuance thereof, Member shall forfeit the right to his/her pension.

The cost of the physical examination and/or re-examination of the employee or retiree claiming and/or receiving disability benefits shall be borne by the Board. All other reasonable costs as determined by the Board incident to the physical examination, such as, but not limited to, transportation, meals and hotel accommodations, shall be borne by the Board.

If the retiree recovers from disability and reenters his/her former service with the Village of Tequesta held prior to disability retirement, his/her service will be deemed to have been continuous, but the period beginning with the first month for which he/she received a disability retirement income payment and ending with the date he/she reentered the service of the Village will not be considered as credited service for the purposes of the Plan.

The Board shall have the power and authority to make the final decision regarding all disability claims.

5. Disability Payments

The monthly benefit to which a Member is entitled in the event of the Member's disability retirement shall be payable on the first day of the first month after the Board of Trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the Board determined such entitlement, and any portion due for a

partial month shall be paid together with the first payment. The last payment will be:

- A. If the plan member recovers from the disability or attains his/her normal retirement date, the payment due next preceding the date of such recovery, or
- B. If the plan member dies without recovering from the disability prior to his/her normal retirement date while still disabled, the payment due next preceding his/her death or the 120th monthly payment, whichever is later.

Section 10. Monthly Supplemental Benefits.

- 1. Effective upon passage of this Ordinance, any retiree or beneficiary receiving pension benefits is entitled to a monthly supplemental pension benefit of \$20 per year of service, up to a maximum benefit of \$600.00.
- 2. This benefit shall be payable monthly as a part of the regular monthly pension benefit. The benefit shall be payable to the retiree and any beneficiary. The benefit shall cease upon the death of the member or beneficiary, if applicable.

Section 11. Vesting.

If a Member terminates his/her employment with the Village of Tequesta, either voluntarily or by discharge, and is not eligible for any other benefits under this System, the Member shall be entitled to the following:

- 1. Firefighter Members hired before August 13, 2015 and Police Officer Members regardless of date of hire:
 - A. If the Member has less than six (6) years of credited service upon termination, the Member shall be entitled to a refund of his/her accumulated contribution or the Member may leave it deposited with the Fund for up to five (5) years.
 - B. If the Member has six (6) or more years of credited service upon termination, the Member shall be entitled to a monthly retirement benefit that is the actuarial equivalent of the amount of such retirement income otherwise payable to him commencing at the Member's otherwise normal or early retirement date, provided he does not elect to withdraw his/her accumulated contributions and provided the Member survives to his/her normal or early retirement date.
 - C. Members are always 100% vested in their accumulated contributions. In order to be entitled to a benefit, which is in part also based on employer contributions, the Member must have six (6)

years of service and be otherwise entitled to normal or early retirement.

2. Firefighter Members hired on or after August 13, 2015:
 - A. If the Member has less than ten (10) years of credited service upon termination, the Member shall be entitled to a refund of his/her accumulated contribution or the Member may leave it deposited with the Fund for up to five (5) years.
 - B. If the Member has ten (10) or more years of credited service upon termination, the Member shall be entitled to a monthly retirement benefit that is the actuarial equivalent of the amount of such retirement income otherwise payable to him commencing at the Member's otherwise normal or early retirement date, provided he does not elect to withdraw his/her accumulated contributions and provided the Member survives to his/her normal or early retirement date.
 - C. Members are always 100% vested in their accumulated contributions. In order to be entitled to a benefit, which is in part also based on employer contributions, the Member must have ten (10) years of service and be otherwise entitled to normal or early retirement.

Section 12. Optional Forms of Benefits.

1. In lieu of the amount and form of retirement income payable in the event of normal, early, or disability retirement as specified herein, a plan member, upon written request to the Board of Trustees, and subject to the approval of the Board of Trustees, may elect to receive a retirement income or benefit of equivalent actuarial valuation payable in accordance with one of the following options:

- A. A retirement income of a larger monthly amount, payable to the Member for his/her lifetime only.
- B. A retirement income of a modified monthly amount, payable to the Member during the joint lifetime of the Member and a dependent joint pensioner designated by the Member and following the death of either of them, 100%, 76%, 66-2/3%, or 50% of such monthly amounts payable to the survivor for the lifetime of the survivor.

2. The Member, upon electing any option of this section, will designate the joint pensioner or beneficiary (or beneficiaries) to receive the benefit, if any, payable under the Plan in the event of the Member's death, and will have the power to change such designation from time to time, subject to the provisions below.

- A. Dependent Joint Pensioner Benefit - If a Member has elected an option with a dependent joint pensioner and the Member's retirement income benefits have commenced, the then retired member may thereafter change his/her designated joint pensioner up to twice in accordance with Florida Statutes §175.333 and §185.341 without the approval of the board of trustees or the current joint pensioner. The retired member is not required to provide proof of the good health of the joint pensioner being removed, and the joint pensioner being removed need not be living. Upon receipt of a completed change of dependent joint pensioner form or such other notice, the Board of Trustees shall adjust the retired member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the retired member's current benefit and there is no impact to the Plan. The joint pensioner being removed will be assumed deceased by the actuary in determining the actuarially equivalent amount of the revised monthly payment. No retired member's current benefit shall be increased as a result of the change of the joint pensioner. The retired member shall also be responsible for the cost of the recalculation of the benefit by the actuary.
- B. Beneficiary - If a Member has elected an option with a beneficiary and the Member's retirement income benefits have commenced, the retired member may thereafter change his/her designated beneficiary up to twice in accordance with Florida Statutes §175.333 and §185.341 without the approval of the board of trustees or the current beneficiary. The retired member is not required to provide proof of the good health of the beneficiary being removed, and the beneficiary being removed need not be living. Upon receipt of a completed change of beneficiary form or such other notice, the Board of Trustees shall adjust the Retired Member's monthly benefit by the application of actuarial tables and calculations developed to ensure that the benefit paid is the actuarial equivalent of the present value of the retired member's current benefit and there is no impact to the Plan. The beneficiary being removed will be assumed deceased by the actuary in determining the actuarially equivalent amount of the revised monthly payment. No retired member's current benefit shall be increased as a result of the change of beneficiary. The retired member shall also be responsible for the cost of the recalculation of the benefit by the actuary.

3. Thereafter the joint pensioner or beneficiary may be changed, but only if the Board of Trustees consents to the change and if the joint pensioner or beneficiary, last previously designated by the retired member is alive when he/she files with the Board of Trustees the request for such change. The consent of joint pensioner or beneficiary to any such change shall not be required.

The Board of Trustees may request such evidence of the good health of joint pensioner that is being removed as it may require and the amount of the retirement income payable to the Police Officer or Firefighter upon designation of a new joint pensioner shall be actuarially redetermined taking into account the age and sex of the

former joint pensioner, the new joint pensioner, and the Police Officer or Firefighter. Each such designation will be made in writing on a form prepared by the Board of Trustees and on completion will be filed with the Board of Trustees.

In the event that no designated beneficiary survives the Member, such benefits as are payable in the event of the death of the Member subsequent to his/her retirement shall be paid as provided in this Section 12.

4. Retirement income payments shall be made under the option elected in accordance with the provisions of this section and shall be subject to the following limitations:

- A. If a Member dies prior to his/her normal retirement date or early retirement date, whichever occurs, no retirement benefit will be payable under the option to any person, but the benefits, if any, will be determined under Section 8.
- B. If the designated beneficiary (or beneficiaries) or joint pensioner dies before the Member's retirement under the Plan, the option elected will be canceled automatically and a retirement income of the normal form and amount will be payable to the Member upon his/her retirement as if the election had not been made, unless a new election is made in accordance with the provisions of this section or a new beneficiary is designated by the Member prior to his/her retirement and within ninety (90) days after the death of the beneficiary.
- C. If both the retired Member and the beneficiary (or beneficiaries) designated by the Member die before the full payment has been effected under any option providing for payments for a period certain and life thereafter, made pursuant to the provisions of subsection 1, the Board of Trustees may in its discretion, direct that the computed value of the remaining payments be paid in a lump sum and in accordance with this Section 12.
- D. If a Member continues beyond his/her normal retirement date pursuant to the provisions of Section 7, subsection 1, and dies prior to his/her actual retirement and while an option made pursuant to the provisions of this section is in effect, monthly retirement income payments will be made, or a retirement benefit will be paid, under the option to a beneficiary (or beneficiaries) designated by the Member in the amount or amounts computed as if the Member had retired under the option on the date on which his/her death occurred.

5. The Member may not change his/her retirement option after the date of cashing or depositing his/her first retirement check.

Section 13. Beneficiaries.

1. Each Member may, on a form provided for that purpose, signed and filed with the Board of Trustees, designate a beneficiary (or beneficiaries) to receive the benefit, if any, which may be payable in the event of his/her death; and each designation may be revoked by such Member by signing and filing with the Board of Trustees a new designation-of-beneficiary form.

2. If a deceased Member fails to name a beneficiary in the manner prescribed in subsection 1, or if the beneficiary (or beneficiaries) named by a deceased Member predeceases the Member, the death benefit, if any, which may be payable under the Plan with respect to such deceased Member may be paid, in the discretion of the Board of Trustees, either to:

- A. The wife or dependent children of the Member;
- B. The dependent living parents of the Member; or
- C. Estate of the Member.

Section 14. Deferred Retirement Option Plan.

1. Eligibility to Participate in the Drop

- A. Any Member who is eligible to receive a normal retirement pension may participate in the DROP. Members shall elect to participate by applying to the Board of Trustees on a form provided for that purpose.
- B. Election to participate shall be forfeited if not exercised within the first twenty-seven (27) years of combined credited service. However, participation in the first years of enactment will be extended to those Members with twenty-eight (28) years of service in 2003.
- C. A Police Officer Member shall not participate in the DROP beyond the time of attaining 30 years of service and the total years of participation in the DROP shall not exceed five (5) years. For example:
 - (1) Police Officer Members with twenty-five (25) years of credited service at time of entry shall only participate for five (5) years.
 - (2) Police Officer Members with twenty-six (26) years of credited service at time of entry shall only participate for four (4) years.
 - (3) Police Officer Members with twenty-seven (27) years of credited service at time of entry shall only participate for three (3) years.
- D. A Firefighter Member's total years of participation in the DROP shall not exceed five (5) years. Firefighter Members are eligible to elect DROP participation upon reaching eligibility for normal retirement up to two years after normal retirement eligibility. DROP participation shall end at the first to occur of:
 - (1) Termination of employment; or
 - (2) Sixty months of participation in the DROP.
- E. Upon a Member's election to participate in the DROP, he or she shall cease to be a Member and is precluded from accruing any additional benefit under the Pension Fund. For all Fund purposes, the Member becomes a retirant. The amount of credited service and final average salary freeze as of the date of entry into the DROP.

2. Amounts Payable upon Election to Participate in DROP

- A. Monthly retirement benefits that would have been payable had the Member terminated employment with the department and elected to receive monthly

pension payments will be paid into the DROP and credited to the retiree. Payments into the DROP will be made monthly over the period the retiree participates in the DROP, up to a maximum of sixty (60) months.

- B. Payments to the DROP earn interest using the rate of investment return earned on Pension Fund assets during the twelve (12) month period ending September 30th. The rate determined shall be the rate reported to the Division of Retirement pursuant to Part VII of Chapter 112, Florida Statutes and shall be no less than zero (0) percent and no more than seven and one-half (7.5) percent. However, if a police officer or firefighter does not terminate employment at the end of participation in the DROP, interest credits shall cease on the current balance and on all future DROP deposits.

- (1) Interest shall be credited or debited to the member's average daily DROP balance on a quarterly basis at the net rate determined by the investment consultant quarterly and reported annually to the state. The crediting rate is determined using the Modified Dietz method.
- (2) A participant's quarterly rate of return is calculated in a 2 step process. Step 1 is to calculate each month's rate of return using the Modified Dietz formula. Step 2 is to link the monthly returns together.

Step One (Calculate the monthly returns using the modified Dietz Formula)

$$R_{MDietz} = \frac{\text{Gain}}{\text{AverageCapital}} = \frac{EMV - BMV - F}{BMV + \sum_{i=1}^n W_i \times F_i}$$

Where:

EMV is the ending market value

BMV is the beginning market value

F is the net external inflow for the period (contributions to a portfolio are entered as positive flows while withdrawals are entered as negative flows). The investment manager fee is not included in this calculation (net of fees). Other expenses including, but not limited to investment consultant, custodial, actuarial, administrative and legal fees are included.

$$\sum_{i=1}^n W_i \times F_i =$$

The sum of each flow F_i multiplied by its weight W_i . The weight W_i is the proportion of the time period between the

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point in time when the flow F_i occurs and the end of the period. W_i can be calculated as

$$W_i = \frac{CD - D_i}{CD}$$

Where CD is the number of calendar days during the return period being calculated, which equals end date minus start date plus 1. D_i is the number of days from the start of the return period until the day on which the flow F_i occurred. This assumes that the flow happens at the end of the day. The investment manager fee is not included in this calculation (net of fees). Other expenses including, but not limited to investment consultant, custodial, actuarial, administrative and legal fees are included.

Step Two (Link the Monthly Returns)

Link the returns geometrically in the following fashion:

$$[(1+R_1) \times (1 + R_2) \times (1 + R_3)] - 1 = \text{Quarterly Rate of return}$$

Where:

R_1 = Return of Month 1

R_2 = Return of Month 2

R_3 = Return of Month 3

- (3) The rate is net of the investment manager fees are paid. The amount of the investment fees are reported monthly by the custodian and are reported annually by the auditor. Investment management fees are generally paid quarterly in arrears and are accounted for on a cash, not accrual basis.
- (4) Statements are effective December 31st, March 31st, June 30th, and September 30th.
- C. No payments will be made from DROP until the Member terminates employment with the department.
- D. Upon termination of employment, Members in the DROP will receive the balance of the DROP account in accordance with the following rules:
 - (1) Members may elect to begin to receive payment upon termination of employment or defer payment of DROP until the latest day as provided under sub-subparagraph c.
 - (2) Payments shall be made in either:

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- a. Lump sum - the entire account balance will be paid to the retirant upon approval of the Board of Trustees.
 - b. Installments - the account balance will be paid out to the retirant in three equal payments paid over 3 years the first payment to be made upon approval of the Board of Trustees.
 - c. Annuity - the account balance will be used to purchase an annuity to be paid monthly, the first payment to be made upon approval by the Board of Trustees. The annuity must be purchased from an insurer licensed to sell such annuities in Florida.
- (3) Any form of payment selected by a police officer must comply with the minimum distribution requirements of the IRC 401(A)(9) e.g., payments must commence by age ~~70½~~ **72, provided the police officer had not attained age 70½ by December 31, 2019.**
- (4) The beneficiary of the DROP Member who dies before payments from DROP begin shall have the same right as the participant in accordance with Ordinance.

Section 15. Claims Procedures Before the Board Decision.

1. If any Member of the System has been:
 - A. Placed on pension under the terms and provisions of this ordinance for disability, or
 - B. Placed on pension because the Member has served the required number of years to entitle him to a pension, or
 - C. Refused benefits under this Plan, and is dissatisfied with the amount of pension the Member is receiving, or believes that he should be entitled to benefits under the Plan, the Member may, in writing, request the Board to review his/her case. The Board shall review the case and enter such order thereon as it deems right and proper ~~within sixty (60) days from receipt of such written request and the receipt by the Board of a written medical release authorization and a list of names and addresses of all treating health care providers for such review of disability claims; provided, that the Board may extend the time for entering such order by an additional forty five (45) days if it determines such time is necessary for discovery in full and adequate review.~~
2. In the event that the order from the Board denies the claim for a change in such benefits or denies the claim for benefits, the order of the Board shall be put in writing. Such written order shall include:

- A. The specific reasons for the denial, including specific references to pertinent provisions of the retirement system on which such denial is based;
- B. A description of any additional material or information that the Board feels is necessary for the Member to perfect his/her claim, together with an explanation of why such material or information is necessary; and
- C. An explanation of the review procedure next open to the Member.

Such review procedure shall provide that:

- (1) Prior to such review, the Member or his/her duly authorized representative may review any pertinent documents including Plan provisions, minutes of the meeting of the Board in which denial of the claim was originally recommended, and any other documents material to the case;
- (2) After such review, the Member and/or his/her duly authorized representative shall submit their case in writing to the Board and request a hearing. Such submission shall be filed with the Board no later than ninety (90) days after the receipt of the order of the Board. Upon receipt of the written submission by the Member, the Board shall schedule an opportunity for a full and fair hearing of the issue ~~within the next ninety (90) days~~, and such scheduled hearing shall be communicated in writing to the Member. The Member and/or his/her duly authorized representative may then appear at such scheduled hearing to present their case. The Board shall consider the facts presented at the scheduled hearing and shall, ~~within thirty (30) days after such hearing~~, make a final ruling in writing on the request of the Member. The written decision shall include the reasons for such decision and, such decision shall be final.
 - (a) The Chairman shall preside over the hearing and shall rule on all evidentiary and other legal questions that arise during the hearing.
 - (b) Either party, the claimant or the Board, may file pleadings within the time limits set herein. Procedural motions are to be determined by the Chairman of the Board at any time. All parties are to furnish copies of all pleadings to the opposing parties and exchange lists with names and addresses of witnesses expected to be called to testify at the hearing, as well as the list of exhibits that are intended to be introduced, at least forty-five (45) days prior to the hearing. Testimony of witnesses shall be under oath or affirmation. Depositions or affidavits shall not be admissible unless upon stipulation by all

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parties. The Chairman, any Member of the Board, the attorney for the Board, the claimant and the claimant's attorney, upon recognition by the Chairman, may direct questions to any witness during the proceedings. Each party shall have the right to present evidence relevant to the issues, to cross-examine witnesses, to impeach witnesses and to respond to the evidence presented against the party. Each party shall have the right to present any opening and closing arguments. Any party may secure the services of a court reporter to record the proceedings with the cost to be borne by the party requesting the court reporter or requesting the transcription of the proceedings.

(c) In all cases, unless otherwise provided in this section, the burden of proof shall be on the claimant who seeks to draw his/her entitlement to a pension, disability pension, or increased pension benefits.

3. In all proceedings under subsections 1 or 2 hereof, the Board shall have the power to subpoena and require the attendance of witnesses and the production of documents for discovery prior to and at the proceedings provided for in each paragraph. A reasonable fee may be charged for the issuance of any subpoenas not to exceed the fees set forth in Florida Statutes.

Section 16. Reports to Division of Retirement.

Each year no later than March 15th, the Chairman of the Board shall file two (2) separate reports with the Division of Retirement containing the following relative to the Police Officers and Firefighters of the Plan. The Police Officer report shall be separate from the Firefighter report.

1. Whether in fact the Village is in compliance with the provisions of Chapters 175 and 185, Florida Statutes.

2. A certified statement of accounting for the most recent fiscal year of the Village (or an independent audit by a certified public accountant if required by the Division of Retirement) showing a detailed listing of assets and methods used to value them and a statement of all income and disbursements during the year by the Public Safety Board. Such income and disbursements shall be reconciled with the assets at the beginning and end of the year.

3. A statistical exhibit showing the number of Police Officers on the force of the Village, the number included in the Pension Plan, the number of Police Officers ineligible, classified according to the reasons for their being ineligible, and the number of disabled and retired Police Officers and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by

them.

4. A statistical exhibit showing the number of Firefighters on the force of the Village, the number included in the Pension Plan, the number of Firefighters ineligible, classified according to the reasons for their being ineligible, and the number of disabled and retired Firefighters and their beneficiaries receiving pension payments and the amounts of annual retirement income or pension payments being received by them.

5. A statement of the amount the Village has contributed to the Public Safety Pension Fund for the preceding plan year and the amount the Village will contribute to the Public Safety Pension Fund for the current plan year.

6. If any benefits are insured with a commercial insurance company, the report shall include a statement of the relationship of the insured benefits to the benefits provided by this Ordinance. This report shall also contain information about the insurer, basis of premium rates, mortality table, interest rates and method used in valuating retirement benefits.

7. An actuarial valuation of the retirement Plan for Public Safety Officers must be made at least once every three (3) years commencing from the last actuarial report of the Plan. Such valuation shall be prepared by an enrolled actuary who is enrolled under Subtitle C of the Title 3 Employee Retirement Income Security Act of 1974 and who is a Member of the Society of Actuaries or the American Academy of Actuaries.

Section 17. Roster of Retirees.

The Secretary of the Boards shall keep a record of all persons enjoying a pension under the provisions of this Ordinance in which it shall be noted the time when the pension is allowed and when the same shall cease to be paid. Additionally, the Secretary shall keep a record of all Police Officers and Firefighters employed by the Village who are Members of the plan their board administers in such a manner as to show the name, address, date of employment and date such employment is terminated.

Section 18. Board Attorney and Professionals.

The Board may employ independent legal counsel at the Pension Fund's expense for the purposes contained herein, together with such other professional, technical, or other advisors as the Board deems necessary.

Section 19. Maximum Pension.

1. 415(b) Internal Revenue Code Limits

A. Basic Limitations. Notwithstanding anything to the contrary in this Plan, the provisions of Section 415 and its regulations are hereby incorporated by

reference into this plan. Subject to the adjustments in Code Section 415, the maximum amount of the actual annual retirement income paid in any year with respect to a Participant under this Plan attributable to employer provided benefits shall not exceed the dollar amount allowable for any calendar year pursuant to §415(b) of the Code, as adjusted in such calendar year for increases in the cost of living in accordance with Regulations issued by the Secretary of the Treasury under §415(d) of the Code. For purposes of applying the basic limitation, benefits payable in any form other than a straight life annuity with no ancillary benefits shall be adjusted, as provided by Treasury Regulations, so that such benefits are the Actuarial Equivalent of a straight life annuity. For purposes of this subsection Article, the following benefits shall not be taken into account:

- (1) Any ancillary benefit which is not directly related to retirement income benefits;
- (2) Any other benefit not required under §415(b)(2) of the Code and Treasury Regulations thereunder to be taken into account for purposes of the limitation of §415(b)(1) of the Code.

- B. This section shall be effective for distributions after December 31, 2001.
- C. For purposes of applying the limitations of Code Section 415(b), compensation includes those items as set forth in Reg. 1.415-2(d). This definition specifically includes the crediting of compensation while absent from service for military duty; such crediting shall to exceed the compensation that would have been credited under the System if System services had continued.

2. Additional Limitation on Pension Benefits. Notwithstanding anything herein to the contrary:

- A. The normal retirement benefit or pension to a retiree who becomes a member of the Plan and who has not previously participated in such Plan, on or after January 1, 1980, shall not exceed 100 percent of his/her average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments. In all events, distributions shall be limited by the applicable provisions of Code section 415(b) limits.
- B. No member of the Plan who is not now a member of such Plan shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from another retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

3. 401(a)(17) Limitation on Compensation

For any person who first becomes a member in any plan year beginning on or after January 1, 1996, compensation for any plan year shall not include any amounts in excess of the Internal Revenue Code s. 401(a)(17) limitation (as amended by the Omnibus Budget Reconciliation Act of 1993), which limitation shall be adjusted as required by federal law for qualified government plans and shall be further adjusted for changes in the cost of living in the manner provided by Internal Revenue Code s. 415(d). For any person who first became a member prior to the first plan year beginning on or after January 1, 1996, the limitation on compensation shall be not less than the maximum compensation amount that was allowed to be taken into account under the plan as in effect on July 1, 1993, which limitation shall be adjusted for changes in the cost of living since 1989 in the manner provided by Internal Revenue Code s. 415(d).

Section 20. Commencement of Benefits

1. Unless the Member otherwise elects, with such election being in writing and to the Trustees and specifying the form of retirement income and date on which the retirement income is to commence, the payment benefits under the Plan to the Member shall commence not later than the 60th day after the close of the Plan Year in which the latest following events occur:

- A. The attainment by the Member of age 65;
- B. The 10th anniversary of the date on which the Member commenced participation in the Plan; or
- C. The termination of the Member's service with the Village of Tequesta

2. If the payment of a Member's retirement income cannot begin on the date required under subsection 1 of the Section because the Trustees either cannot ascertain the amount of the Member's retirement income or cannot locate the Member after making reasonable efforts to do so, the payment of the Member's benefit shall begin not later than sixty (60) days after the date on which the amount can be ascertained or the Member is located, whichever is applicable. Any such payment shall be made retroactive to a date which is not earlier than the date on which the payment of the Member's benefit was scheduled to begin but which is not later than the date specified under subsection 1 of this Section.

Section 21. Distribution of Benefits.

1. Notwithstanding any other provision of this Plan to the contrary, a form of retirement income payable from this Plan after the effective date of this ordinance, shall be made in accordance with the requirements of Code Section 401(a)(9), including the minimum distribution incidental benefit requirements of section 1.401(a)(9)-2 Code Section 401(a)(9)(G) to satisfy the following conditions:

- A. If the retirement income is payable before the Member's death, the distribution shall commence to them not later than the calendar year defined above; and
- (1) shall be paid over the life of the Member or over the lifetimes of the Member and spouse or dependent, or,
 - (2) shall be paid over the period extending not beyond the life expectancy of the Member and spouse or dependent.

Where a form of retirement income payment has commenced in accordance with the preceding paragraphs and the Member dies before his/her entire interest in the Plan has been distributed, the remaining portion of such interest in the Plan shall be distributed no less rapidly than under the form of distribution in effect at the time of the Member's death.

- B. If the Member's death occurs before the distribution of his/her interest in the Plan has commenced, the Member's entire interest in the Plan shall be distributed within five (5) years of the Member's death, unless it is to be distributed in accordance with the following rules:

- (1) The Member's remaining interest in the Plan is payable to his/her spouse or dependent;
- (2) The remaining interest is to be distributed over the life of the spouse or dependent or over a period not extending beyond the life expectancy of the spouse or dependent; and
- (3) Such distribution begins within one year of the Member's death unless the Member's spouse, issue or dependent shall receive the remaining interest in which case the distribution need not begin before the date on which the Member would have attained age 72 70½ and if the spouse, issue or dependent dies before the distribution to the spouse, issue or dependent begins, this Section shall be applied as if the spouse, issue or dependent were the Plan Member.

2. Should the Member be subject to an involuntary mandatory distribution of a nonforfeitable account balance that is under \$5,001 but is more than \$1,000, then the assets shall be rolled over to an individual retirement plan of a designated trustee or issuer. If the present value of a vested benefit exceeds \$5,000, then the benefit may only be paid out with the Member's consent.

Section 22. Miscellaneous Provision.

1. Interest of Members in Pension Fund. At no time prior to the satisfaction of all liabilities under the Plan with respect to Members and their spouses or beneficiaries, shall any part of the corpus or income of the Pension Fund be used for or diverted to any purpose other than for their exclusive benefit.

2. No amendment or ordinance shall be adopted by the Village Council of the Village of Tequesta which shall have the effect of reducing the then vested accrued benefits to Members or Members beneficiaries.

3. Rollover Distributions

A. This subsection applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this subsection, a distributee may elect, at the time and in the manner prescribed by the Board of Trustees, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

B. Definitions.

(1) "Eligible rollover distribution" is any distribution of all or any portion of the balance to the credit of the distributee or former spouse under an income deduction order under Florida law, except that an eligible rollover does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of 10 years or more; and any distribution to the extent such distribution is required under section 401(a)(9) of the Code.

(2) "Eligible retirement plan" is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust, an annuity plan described in section 403(a) of the Code, effective January 1, 2002, an eligible deferred compensation plan described in §457(b) which is maintained by an eligible employer described in §457(e)(1)(A) of the Code or an annuity contract described in 403(b) of the Code, that accepts the distributee's eligible rollover distribution.

(3) "Distributee" includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse who is entitled to payment for alimony and child support under a domestic relations order determined to be qualified by this Fund are distributees with regard

to the interest of the spouse or former spouse.

- (4) "Direct rollover" is a payment by the Plan to the eligible retirement plan specified by the distributee.

4. IRS Compliance.

- A. It is intended that the System be administered at all times in accordance with the provisions of the Internal Revenue Code and the corresponding Treasury Regulations applicable to a governmental defined benefit retirement plan.**
- B. In recognition of the changing requirements of System qualification, the Board shall adopt an administrative policy setting forth the required provisions for tax qualification. Such a policy shall be amended by the Board as required to maintain continuing compliance with the Internal Revenue Code and that policy and any amendments shall have the force of law as if adopted by the Village Council.**

Section 23. Repeal or Termination of System.

1. This Ordinance establishing the System and Fund, and subsequent Ordinances pertaining to said System and Fund, may be modified, terminated, or amended, in whole or in part; provided that if this or any subsequent Ordinance shall be amended or repealed in its application to any person benefitting hereunder, the amount of benefits which are the time of any such alteration, amendment, or repeal shall have accrued to the Member or beneficiary shall not be affected thereby.

2. If this Ordinance shall be repealed, or if contributions to the System are discontinued, the Board shall continue to administer the System in accordance with the provisions of this Ordinance, for the sole benefit of the then Members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under one of the options provided for in this Ordinance who are designated by any of said Members. In the event of repeal, Plan termination, or if contributions to the System are completely discontinued, there shall be full vesting (100%) of benefits accrued to date of repeal. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.

3. Upon termination of the plan by the Village for any reason, or because of a transfer, merger, or consolidation of governmental units, services, or functions as provided in chapter 121, or upon written notice to the board of trustees by the Village that contributions under the plan are being permanently discontinued, the rights of all employees to benefits accrued to the date of such termination or discontinuance and the amounts credited to the employees' accounts are nonforfeitable. The fund shall be distributed in accordance with the following procedures:

- A. The board of trustees shall determine the date of distribution and the asset value required to fund all the nonforfeitable benefits, after taking into account the expenses of such distribution. The board shall inform the Village if additional assets are required, in which event the Village shall continue to financially support the plan until all nonforfeitable benefits have been funded.
- B. The board of trustees shall determine the method of distribution of the asset value, whether distribution shall be by payment in cash, by the maintenance of another or substituted trust fund, by the purchase of insured annuities, or otherwise, for each police officer and firefighter entitled to benefits under the plan, as specified in subsection C.
- C. The board of trustees shall distribute the asset value as of the date of termination in the manner set forth in this subsection, on the basis that the amount required to provide any given retirement income is the actuarially computed single-sum value of such retirement income, except that if the method of distribution determined under subsection B involves the purchase of an insured annuity, the amount required to provide the given retirement income is the single premium payable for such annuity. The actuarial single-sum value may not be less than the employee's accumulated contributions to the plan, with interest if provided by the plan, less the value of any plan benefits previously paid to the employee.
- D. If there is asset value remaining after the full distribution specified in subsection C, and after payment of any expenses incurred with such distribution, such excess shall be returned to the Village, less return to the state of the state's contributions, provided that, if the excess is less than the total contributions made by the Village and the state to date of termination of the plan, such excess shall be divided proportionately to the total contributions made by the Village and the state.
- E. The board of trustees shall distribute, in accordance with the manner of distribution determined under subsection B, the amounts determined under subsection C.

4. The allocation of the Fund provided for in this subsection may, as decided by the Board be carried out through the purchase of insurance company contracts to provide the benefits determined in accordance with this subsection. The Fund may be distributed in one sum to the persons entitled to said benefits or the distribution may be carried out in such other equitable manner as the Board may direct. The Trust may be continued in existence for purposes of subsequent distributions.

5. After all the vested and accrued benefits provided hereunder have been paid and after all other liabilities have been satisfied, then and only then shall any remaining fund revert to the General Fund of the Village.

Section 24. Exemption from Execution, Non-assignability.

The pensions, annuities, or any other benefits accrued or accruing to any person under the provisions of this Ordinance and the accumulated contributions and the cash securities in the Fund created under this Ordinance are hereby exempted from any state, county or municipal tax of the state and shall not be subject to execution, attachment, garnishment or any legal process whatsoever and shall be unassignable. However, pursuant to an income deduction order, the trustees may direct that retirement benefits be paid for alimony or child support in accordance with rules and regulations adopted by the Board of Trustees.

Upon written request by the retiree, the Board of Trustees may authorize the Plan administrator to withhold from the monthly retirement payment funds necessary to:

1. pay for benefits being received through the Village;
2. pay the certified bargaining agent; or
3. to pay for premiums for accident health and long-term care insurance for the retiree, the retiree's spouse and dependents. A retirement plan does not incur liability for participation in this permissive program if its actions are taken in good faith pursuant to Florida Statutes §§175.061(7) and 185.05(6).

Section 25. Pension Validity.

The Board of Trustees shall have the power to examine into the facts upon which any pension shall heretofore have been granted and under any prior or existing law, or shall hereafter be granted or obtained erroneously, fraudulently or illegally for any reasons. Said Board is empowered to purge the pension rolls of any person heretofore granted a pension under prior or existing law or heretofore granted under this Ordinance if the same is found to be erroneous, fraudulent or illegal for any reason, and to reclassify any person who has heretofore under any prior or existing law been or who shall hereafter under this Ordinance be erroneously, improperly or illegally classified.

Section 26. Forfeiture of Pension.

Any Member convicted of the following offenses committed prior to retirement, or whose employment is terminated by reason of his/her admitted commission, aid or abatement of the following specified offenses, shall forfeit all rights and benefits under this Pension Fund, except for the return of this accumulated contributions as of the date of termination.

1. Specified offenses are as follows:

- A. The committing, aiding or abetting of an embezzlement of public funds;
- B. The committing, aiding or abetting of any theft by a public officer or employee from employer;
- C. Bribery in connection with the employment of a public officer or employee;
- D. Any felony specified in Chapter 838, Florida Statutes;
- E. The committing of an impeachable offense.
- F. The committing of any felony by a public officer or employee who willfully and with intent to defraud the public or public agency, for which he acts or in which he is employed, of the right to receive the faithful performance of his/her duty as a public officer or employee, realizes or obtains or attempts to obtain a profit, gain, or advantage for himself or for some other person through use or attempted use of the power, rights, privileges, duties or position of his/her public office or employment position.
- G. The committing on or after October 1, 2008, of any felony defined in §800.04, Florida Statutes, against a victim younger than 16 years of age, or any felony defined in Chapter 794, Florida Statutes against a victim younger than 18 years of age, by a public officer or employee through the use or attempted use of power, rights, privileges, duties, or position of his or her public office or employment position.

2. Definitions

A. Conviction shall be defined as:

An adjudication of guilt by a court of competent jurisdiction; a plea of guilty or nolo contendere; a jury verdict of guilty when adjudication of guilt is withheld and the accused is placed on probation; or a conviction by the Senate of an impeachable offense.

B. Court shall be defined as:

Any state or federal court of competent jurisdiction which is exercising jurisdiction to consider a proceeding involving the alleged commission of a specified offense. Prior forfeiture, the Board of Trustees shall hold a hearing on which notice shall be given to the Member whose benefits are being considered for forfeiture. Said Member shall be afforded the right to have an attorney present. No formal rules of evidence shall apply, but the Member shall be afforded a full opportunity to present his/her case against forfeiture.

Any Member who has received benefits from the System in excess of

his/her accumulated contributions after Member's rights were forfeited shall be required to pay back to the Fund the amount of the benefits received in excess of his/her accumulated contributions. The Board of Trustees may implement all legal action necessary to recover such funds.

3. False, misleading, or fraudulent statements made to obtain public retirement benefits is prohibited; penalty
 - A. It is unlawful for a person to willfully and knowingly make, or cause to be made, or to assist, conspire with, or urge another to make, or cause to be made, any false, fraudulent, or misleading oral or written statement or withhold or conceal material information to obtain any benefit available under a retirement plan receiving funding under Florida Statutes, Chapters 175 and 185.
 - B. A person who violates subsection (A) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

In addition to any applicable criminal penalty, upon conviction for violation described in subsection (A), a participant or beneficiary of a pension plan receiving funding under Florida Statutes, Chapters 175 and 185 may, in the discretion of the Board of Trustees, be required to forfeit the right to receive any or all benefits to which the person would otherwise be entitled under this Ordinance. For purposes of this paragraph, "conviction" means a determination of guilt that is the result of a pleas or trial, regardless of whether adjudication is withheld.

Section 27. Military Service Prior to Employment.

1. **Police Officers:** In accordance with Code Section 414(n), the years or fractional parts of years that a **Police Officer** Member serves or has served in the military service of the Armed Forces of the United States or United States Merchant Marine, voluntarily or involuntarily, prior to first and initial employment with the Police Department ~~or Fire Department~~ shall be added to his/her years of credited service provided that:
 - A.1. The Police Officer ~~or Firefighter~~ contributes to the Fund the sum that he/she would have contributed had he/she been a member of the Plan for the years or fractional parts of years for which he/she is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus payment of costs for all professional services rendered to the Board in connection with the purchase years of credited service.
 - B.2. The request shall be made only once and made by the **Police Officer** Member on or before the later of twelve (12) months from the effective date

of this Ordinance or six (6) months from the date of his/her employment with the Police Department or ~~Fire Department~~, whichever is later.

C.3. Payment by the **Police Officer** ~~Member~~ of the required amount shall be made within six (6) months of his/her request for credit and shall be made in one lump sum payment upon receipt of which credited service shall be given. Credited service purchased pursuant to this section shall be counted for all purposes except toward vesting of benefits.

D.4. The maximum credit under this **subsection** shall be five (5) years.

2. Firefighters:

A. Military Service. In accordance with Code Section 414(n), the years or fractional parts of years that a Firefighter serves or has served in the military service of the Armed Forces of the United States or United States Merchant Marine, voluntarily or involuntarily, prior to first and initial employment with the Fire Department shall be added to his/her years of credited service provided that:

(1) The Firefighter contributes to the Fund the sum that he/she would have contributed had he/she been a member of the Plan for the years or fractional parts of years for which he/she is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus payment of costs for all professional services rendered to the Board in connection with the purchase years of credited service.

(2) The Firefighter's request to purchase can be made at any time during employment and before retirement and may be made in multiple requests.

(3) Payment by the Firefighter of the required amount shall be made within six (6) months of his/her request for credit and shall be made in one lump sum payment upon receipt of which credited service shall be given. Payment in full must be made before retirement. Credited service purchased pursuant to this section shall be counted for all purposes except toward vesting of benefits.

B. Prior Firefighter Service. Unless otherwise prohibited by law, the years or fractional parts of years that a Firefighter served as a firefighter for any other municipal, county, state, or federal firefighting agency as a firefighter shall be added to his/her years of credited service provided that:

- (1) The Firefighter contributes to the Fund the sum that he/she would have contributed had he/she been a member of the Plan for the years or fractional parts of years for which he/she is requesting credit plus amounts actuarially determined such that the crediting of service does not result in any cost to the Fund plus payment of costs for all professional services rendered to the Board in connection with the purchase years of credited service.
- (2) The Firefighter's request to purchase can be made at any time during employment and before retirement and may be made in multiple requests.
- (3) Payment by the Firefighter of the required amount shall be made within six (6) months of his/her request for credit and shall be made in one lump sum payment upon receipt of which credited service shall be given. Credited service purchased pursuant to this section shall be counted for all purposes except toward vesting of benefits.

C. The maximum credit under this subsection shall be five (5) years.

2. The request shall be made only once and made by the Member on or before the later of twelve (12) months from the effective date of this Ordinance or six (6) months from the date of his/her employment with the Police Department or Fire Department, whichever is later.

3. Payment by the Member of the required amount shall be made within six (6) months of his/her request for credit and shall be made in one lump sum payment upon receipt of which credited service shall be given. Credited service purchased pursuant to this section shall be counted for all purposes except toward vesting of benefits.

4. The maximum credit under this section shall be five (5) years.

Section 28. Reemployment, election or appointment to the Village Council after retirement.

1. Any retiree who is retired under this plan, except for disability retirement as previously provided for, may be reemployed by any public or private employer, except the Village, and may receive compensation from that employment without limiting or restricting in any way the retirement benefits payable under this plan.

2. After normal retirement. Any retiree who is retired after a normal retirement pursuant to this plan¹ and who is re-employed by the Village including election or

¹ Both normal retirement ages in this plan are after age 50, which is a safe harbor under proposed regulations regarding public safety employees. The application of these regulations has been delayed to January 1, 2015.

appointment to the Village Council after that retirement, shall upon being re-employed continue receipt of benefits. If, upon re-employment, the re-employed retiree is eligible to participate in this plan, the retiree shall be deemed a new employee subject to any vesting and contribution requirements and the additional credited service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final retirement. Calculations of benefits upon initial retirement shall be based upon the benefit accrual rate, average annual earnings, credited service and cost-of-living adjustment as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, average annual earnings (based only on the subsequent employment period), credited service and cost-of-living adjustment as of the date of the subsequent retirement. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the member may select a different optional form and joint pensioner applicable to the subsequent retirement benefit. If a re-employed retiree does not re-vest during his re-employment period, he shall, upon termination of employment, receive a return of his contributions made during his reemployment period.

3. After early retirement. Any retiree who is retired under early retirement pursuant to this plan and who subsequently becomes an employee of the Village in any capacity, including election or appointment to the Village Council, shall discontinue receipt of benefits from the plan. If by virtue of that re-employment, the retiree is eligible to participate in this plan, the retiree shall be deemed to be one hundred (100) percent vested and the additional credited service accrued during the subsequent employment period shall be used in computing a second benefit amount attributable to the subsequent employment period, which benefit amount shall be added to the benefit determined upon the initial retirement to determine the total benefit payable upon final retirement. Calculations of benefits upon retirement shall be based upon the benefit accrual rate, average annual earnings, credited service, cost-of-living adjustment and early retirement reduction factor as of that date and the retirement benefit amount for any subsequent employment period shall be based upon the benefit accrual rate, average annual earnings (based only on the subsequent employment period), credited service, cost-of-living adjustment and early retirement reduction factor, if applicable, as of the date of subsequent retirement. The optional form of benefit and any joint pensioner selected upon initial retirement shall not be subject to change upon subsequent retirement except as otherwise provided herein, but the member may select a different optional form and joint pensioner applicable to the subsequent retirement benefit. Retirement pursuant to an early retirement incentive program shall be deemed early retirement for purposes of this section if the member was permitted to retire prior to the customary retirement date provided for in the plan at the time of retirement.

4. Re-employment of terminated vested persons. Re-employed terminated vested persons, including those elected or appointed to the Village Council, shall not be subject to the provisions of this section until such time as they begin to actually receive benefits, but shall be subject to Section 11. Upon receipt of benefits, terminated vested

persons, including those elected or appointed to the Village Council, shall be treated as normal or early retirees for purposes of applying the provisions of this section and their status as an early or normal retiree shall be determined by the age they elect to begin to receive their benefit.

5. In addition to these provisions and in accordance with Code Section 401(a)(36), an in-service pension distribution may be made in the limited circumstance where a retiree is who retired on normal retirement who has attained age 50 is re-hired by the Village.

Section 29. Defined Contribution Component.

1. Pursuant to the requirements of Florida Statutes 175.351(6) and 185.35(6), a defined contribution plan component is established in addition to the defined benefit component of this local law Plan. This defined contribution component is not currently funded for the Firefighters and is not funded for Police Officers after the initial distribution provided for below. If the plan is funded, the Board of Trustees has the authority to adopt rules regarding the operation of the defined contribution component of the local law plan.
2. One-half of the accumulated unused 185 money as of September 30, 2014 (\$166,657.50) is divided pro rata among the police officer Members as of January 1, 2019 based on months of service into share accounts as set forth below from the Memorandum of Understanding between the Village of Tequesta and the Palm Beach County Police Benevolent Association dated January 11, 2019. These share account balances will be credited with earnings and losses based on the earnings of the Fund as a whole with the first allocation of earnings and losses as of March 31, 2019. The balances are payable to the named police officer Members upon the Member's eligibility for and receipt of a pension from this Plan.

	Name	Eligibility Date	Shared Amounts
1.	Smolen, Keith	2/6/01	\$27,479.40
2.	Fabiano, Joseph	4/4/05	\$21,245.65
3.	Lally, Maximilian	10/29/07	\$17,301.85
4.	Korkowski, Raymond	11/19/07	\$17,174.63
5.	Ramirez, Ariel	12/22/08	\$15,520.77
6.	Blanc, Kurt	5/22/11	\$11,831.41
7.	Johnson, Aaron	6/20/11	\$11,322.53
8.	Yildiz, Emir	12/31/12	\$8,778.14
9.	Muniz, Matthew	3/3/14	\$7,633.17

10.	Waychowsky, Daniel	6/4/14	\$7,251.51
11.	Franklin, Jonathan	7/30/14	\$6,997.07
12.	Jarrell, Thomas	11/1/16	\$3,562.15
13.	Scaduto, Christopher	11/1/16	\$3,562.15
14.	Loney, Michael	3/20/17	\$2,926.05
15.	Baldwin, Timothy	9/14/17	\$2,289.95
16.	Donadio, Tana	3/4/18	\$1,526.63
17.	Robinson, Calvin	12/17/18	\$254.44
		Total:	\$166,657.50

3. To settle a grievance filed on May 19 2020 regarding the amount of contributions Police Officer Members were required to make to purchase service when they joined the Pension Plan in March 2019, the Village and the Palm Beach County Police Benevolent Association agreed to adjust the Police Officer Members' Share Account balances as set forth below effective within 60 days following June 10, 2021 [~~effective date of Ordinance~~]. These share account balances will be credited/debited with earnings and losses based on the net earnings/ losses of the Fund as a whole with the first allocation of earnings and losses following June 10, 2021. [~~effective date of Ordinance~~] The share account balances are payable to the named police officer Members upon the Member' s eligibility for and receipt of a pension from this Plan Any additions to these accounts as a result of the settlement will be considered Member Contributions.

- A. The following Members will have deductions from their Share Account balance in the amounts specified below:

Name	Share Adjustment
1) Baldwin Timothy	(\$378 57)
2) Blanc, Kurt	(\$7,316 01)
3) Jarrell, Thomas	(\$1,023 67)
4) Loney, Michael	(\$705 74)
5) Muniz, Matthew	(\$609 28)
6) Scaduto, Christopher	(\$646 50)
7) Yildiz, Emir	(\$3,455 32)

- B. The following Members will have additions to their Share Account balance in the amounts specified below. -

Name	Share Adjustment
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{00169591.DOCX;3}-51-

1) Franklin, Jonathan	\$2 615 92
2) Johnson, Aaron	\$12,688 05
3) Waychowsky, Daniel	\$6,270 13

C. The Village will make a one- time deposit of \$7,439.01 as the Village' s share of the grievance settlement. This amount will be used to balance the above deductions and additions and will be considered Member Contributions for the Members who receive the additions.

(Ord. No. 585, § 1, 12-11-2003; Ord. No. 598, § 1, 6-9-2005; Ord. No. 13-08, § 1, 10-9-2008; Ord. No. 4-10, § 1(Exh. B), 3-23-2010; Ord. No. 14-10, § 1(Exh. B), 1-13-2011; Ord. No. 14-11, § 1(Exh. B), 9-15-2011; Ord. No. 25-11, § 1, 12-8-2011; Ord. No. 18-12, § 1, 1-10-2013; Ord. No. 9-14, § 1, 6-12-2014; Ord. No. 18-14, § 1(Exh. B), 10-9-2014; Ord. No. 25-14, § 1(Exh. B), 12-11-2014; Ord. No. 15-15, § 1(Exh. B), 8-13-2015; Ord. No. 19-15, § 1(Exh. B), 10-8-2015; Ord. No. 20-15, § 1(Exh. B), 10-8-2015; Ord. No. 2-19, §1(Exh B), 3-14-2019; Ord. No. 10-21 (Exh. B), 6-10-21)

**ORDINANCE****Date**

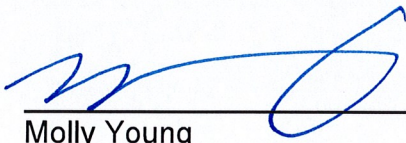
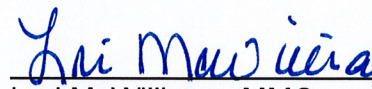
13-22

7/14/2022

Upon Second Reading**Motion** Council Member Frank D'Ambra**Second** Vice-Mayor Kyle Stone

	FOR	AGAINST	ABSENT	CONFLICT
Mayor Molly Young	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice-Mayor Kyle Stone Council	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member Laurie Brandon	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Council Member Frank D'Ambra	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Council Member Aaron Johnson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The Mayor thereupon declared the Ordinance duly passed and adopted.

MAYOR OF TEQUESTA:
Molly Young**ATTEST:**
Lori McWilliams, MMC
Village Clerk