

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this “Agreement”) is made and entered into this 25th day of June 2018, between the Village of Key Biscayne (the “Village”) and Andrea Agha (the “Manager”).

TERMS

1. **Employment.** The Village hereby employs the Employee as its Village Manager under the following terms and conditions.

2. **Term.**

2.1 This Agreement shall have a term of five (5) years commencing on August 13, 2018 (the “Commencement Date”) and ending on August 12, 2023, unless earlier terminated as provided in this Agreement.

2.2 No later than 180 days prior to expiration of this Agreement, unless this Agreement is terminated earlier as provided in this Agreement, the Council shall notify the Manager of its intention to enter into a new agreement, extend this Agreement for such term as the parties may agree or allow this Agreement to expire. If the Council intends to let agreement expire, the Manager may resign from her position with 2 weeks’ prior notice and shall be entitled to receive any accrued unused annual leave or sick leave.

3. **Duties.**

The Manager shall perform the duties and exercise the powers of Village Manager as prescribed by state law and as provided in the Village Charter, including but not limited to the following:

3.1 Be responsible for the appointment, supervision and removal of all Village employees;

3.2 Direct and supervise the administration of all departments and offices but not Village boards or agencies, unless so directed by the Council from time to time;

3.3 Attend all Council meetings except when excused by the Council and shall participate in discussion but not have the right to vote;

3.4 See that all laws, provisions of the Charter and acts of the Council, subject to enforcement and/or administration by her or by officers subject to her direction and supervision, are faithfully executed;

3.5 Prepare and submit to the Council a proposed annual budget and capital program;

3.6 Submit to the Council and make available to the public an annual report on the

finances and administrative activities of the Village as of the end of each fiscal year;

3.7 Prepare such other reports as the Council may require concerning the operations of Village departments, offices, boards and agencies;

3.8 Keep the Council fully advised as to the financial condition and future needs of the Village and make such recommendations to the Council concerning the affairs of the Village as she deems to be in the best interests of the Village;

3.9 Execute contracts, deeds and other documents on behalf of the Village as authorized by the Council; and

3.10 Perform such other duties as are specified in the Charter or as may be required by the Council.

4. Hours of Work. The Manager agrees to remain in the exclusive full-time employment of the Village and shall not accept any other employment during the term of this Agreement. The Manager further agrees to devote that amount of time and energy which is reasonably necessary for the Manager to faithfully perform her duties under this Agreement. Notwithstanding the foregoing, with the prior consent of the Village Council, the Manager, from time to time, may engage in teaching opportunities so long as such opportunities are not for compensation and do not affect her ability to perform her duties under this Agreement.

5. Compensation.

5.1 Salary. The annual salary of the Manager shall be not less than One Hundred and Ninety-Five Thousand Dollars (\$195,000.00), which shall be payable in installments at the same time and manner as other employees of the Village are paid. Any increase in said annual salary shall be in the sole discretion of the Village Council, and only after the annual performance evaluations provided for under Section 6 of this Agreement.

5.2 CPI Adjustments. The Manager's salary shall be adjusted annually according to the Consumer Price Index in the same manner as other Village employees who receive such adjustments.

5.3 Holdback. The Manager agrees and acknowledges that \$10,000 of her gross annual salary (\$195,000) shall be withheld as a holdback and payable to the Manager one (1) year from the Commencement Date so long as the Manager has not voluntarily resigned her position prior to that time.

6. Performance Evaluation.

6.1 Beginning in 2019, the Village Council shall review and evaluate the performance of the Manager annually in advance of the adoption of the annual operating budget. This evaluation shall occur during the ninety (90) days prior to the beginning of each fiscal year. Any such review and evaluation shall be conducted in accordance with specific criteria developed by the Village Council.

Said criteria may be added to or deleted from as the Village Council may from time to time so determine.

6.2 Subsequent to the annual evaluation of Manager's performance, but prior to the beginning of each fiscal year, the Village Council may (in consultation with the Manager) define such goals and performance objectives, in writing, which they determine necessary for the proper operation of the Village and in attainment of the Village Council's policy objectives and may further establish a relative priority among those various goals and objectives. Any such goals and performance objectives shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

7. Automobile and Electronics.

7.1 The Village shall provide the Manager with a 20__ Ford Explorer (presently used by the existing Village Manager) for use during her employment as Village Manager. The Village shall pay for all fuel, insurance, maintenance and repair costs for this vehicle. This vehicle shall be replaced (with a comparable vehicle) from time to time under the vehicle replacement policy of the Village.

7.2 The Village shall provide the Village Manager with a wireless telephone device and tablet with data plan for her exclusive use and such equipment shall be connected to the Village's computer network.

8. Insurance. The Village shall provide comprehensive medical insurance as well as vision and dental insurance for the Manager and her family and agrees to pay the full premium for POS/PPO coverage. The Manager shall select such coverage from the insurance plan provided to all Village employees. The Village also shall provide the Manager with life insurance and long-term disability insurance coverage in the same manner and amounts as provided by the Village to other general employees of the Village.

9. Retirement and Benefits. The Village shall contribute into the Manager's Defined Contribution Plan (i.e. 401(a) plan) in an amount which is equal to 12% of the Manager's annual base salary. The Manager's participation in the Defined Contribution Plan shall begin as of the Commencement Date with the Manager vested at 100% in the plan. The Manager may make additional contributions as provided by law.

10. Annual Leave, Sick Leave and Personal Days. The Manager shall be entitled to the following:

- 10.1 Twenty (20) days of annual/vacation leave.
- 10.2 Twelve (12) days of sick leave.
- 10.3 Four (4) days of personal leave.

These days shall accrue and be used in the same manner as for all other Village employees. In addition, as consideration for the Manager's time worked during the transition period between June 25, 2018 through the Commencement Date, the Manager shall, be entitled to an additional five (5) days of annual leave which must be used 1 day per year during the five-year term of this Agreement.

11. Termination by Village and Severance Pay.

11.1 In accordance with the Charter, the Manager shall serve at the pleasure of the Village Council. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the Village Council to terminate the services of the Manager at any time during a regular or special Village Council meeting.

11.2 In the event the Village Council wishes to terminate the Manager without cause, the Manager shall receive a lump sum severance pay equal to 20 weeks of her regular base salary at the time of termination. The Village shall also continue to pay the premium for the Manager and her family's health insurance for 20 weeks after the effective date of her termination. The Village's obligation to pay for health insurance shall cease upon Manager's ability to participate in another group plan offered by any subsequent employer. The Village shall not provide the Manager with any other benefit or reimbursement (except as specifically set forth in this paragraph) beyond the date of her termination. All severance payments (excluding the continuation of health insurance benefits) shall be paid to the Manager in a lump sum upon her next regular pay period after termination. Upon payment of the severance payment specified in this Section 11.2, and the health insurance benefits provided for herein, the Village shall have no further contractual financial obligations to the Manager. The severance payment shall constitute stipulated and liquidated damages and the maximum amount of financial liability for which the Village may be liable in the event of termination or breach of contract. Termination by the Village Council under this Section or any other provisions of this Agreement shall not cause the Manager to forfeit any vested benefits under the Defined Contribution Plan.

11.3 In the event the Manager is terminated for misconduct as defined in Section 443.036(30), Florida Statutes, the Village shall have no obligation to pay the Manager any severance pay, health insurance or other benefits under this Agreement. Misconduct includes, but is not limited to: (i) gross negligence in the performance of her duties; (ii) conviction of a felony; (iii) gross insubordination; (iv) willful neglect of duty; or (v) adjudicated violation of the Florida Code of Ethics for Public Officers and Employees, the Miami-Dade Conflict of Interest and Code of Ethics, the Village Charter, or the Village's Code of Ordinances.

11.4 If the Manager is unable to perform her duties as specified in Section 3 of this Agreement for a period of thirty (30) consecutive days or sixty (60) non-consecutive days during any one-year period for any reason other than an approved Family Medical Leave Act ("FMLA") absence, the Village Council may terminate this Agreement. If the Manager takes FMLA-approved leave and exhausts her statutorily-protected, FMLA-approved leave in any one-year period, the Village Council may terminate this Agreement. If this Agreement is terminated under this Section, the Manager shall not be entitled to severance pay or any other benefits under the terms of this Agreement except for accrued unused leave.

12. Termination by Manager.

12.1 In the event that the Manager resigns during the Term of this Agreement, the Manager shall provide the Village with 90 days' advance written notice, unless the parties agree in writing to a different period of time. In the event of resignation by the Manager under this

Section, the Manager shall not be entitled to receive any severance or health insurance benefits; however, she shall be entitled to receive (cash-out) any accrued unused annual leave or sick leave.

12.2 In the event that the Manager resigns with less than 90 days' advance written notice, the Village Council may elect to terminate the Manager immediately or allow the Manager to continue to serve until the date specified in the Manager's resignation. In the event of a resignation or termination under this paragraph, notwithstanding any other provisions of this Agreement, the Manager shall not be entitled to receive severance payment, annual vacation leave or sick leave unless the Village Council authorizes payment of same.

13. Professional Development.

13.1 Subject to Village policy and state law, the Village agrees to pay the reasonable professional dues and subscriptions of the Manager necessary for her continuation and participation as a member in national, regional, state and local professional associations and organizations necessary and desirable for her continued professional participation, growth and advancement, and for the good of the Village. The Manager shall not hold office in any local, state, regional or national professional association or organization without prior approval of the Village Council; however the Manager may serve as the President of the Miami-Dade City and County Management Association for year 2018-2019.

13.2 Subject to Village policy and state law, the Village agrees to pay the travel and reasonable per diem expenses of the Manager for travel to one national and one state association annual conference per year. The Manager may, with the approval of the Village Council, attend additional national and/or state conferences.

14. Notice. Notices pursuant to this Agreement shall be given by certified mail through United States Postal Service delivery, addressed as follows:

Village	Mayor and Members of the Village Council Village of Key Biscayne 88 West McIntyre Street Key Biscayne, Florida 33149
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Village Manager	Andrea Agha _____ _____
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Village Attorney	Weiss Serota Helfman Cole & Bierman, P.L. 2525 Ponce de Leon Blvd., Suite 700 Miami, Florida 33134
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15. Other Terms and Conditions.

DRAFT – June 22, 2018

15.1 If any provision, or any portion thereof, contained in this Agreement is held to be unconstitutional, illegal, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

15.2 The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

15.3 The rights and obligations herein granted are personal in nature and cannot be transferred by the Manager.

15.4 This Agreement contains the entire agreement of the parties. It may not be changed orally, but only by an amendment in writing signed by the parties hereto.

15.5 This Agreement shall be governed by Florida law and any litigation which may arise from this Agreement shall be filed and litigated in Miami-Dade County, Florida.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed and executed, in duplicate, on the day and year first written above.

VILLAGE OF KEY BISCAYNE

By: _____
Mayor Mayra Lindsay

VILLAGE MANAGER

By: _____
Andrea Agha

Village Manager Benefits Comparison

Benefit	Description	Proposed Agreement
Salary	\$199,335.32	\$195,000. However, \$10,000 is held back in the first year to be paid on the one year anniversary of the commencement of the agreement
Medical Insurance	Village contributes \$530.18 (employee only premium for HMO) and 75% for dependent coverage	<u>Self & Family</u> - 100% premium paid by Village (POS/PPO)
Dental Insurance	Voluntary coverage (no Village subsidy)	<u>Self & Family</u> - 100% PPO premium paid by Village
Vision Insurance	Voluntary coverage (no Village subsidy)	<u>Self & Family</u> - 100% premium paid by Village
Annual Leave	Accrues 25 days per year (14.4833 hours per month)	20 days per year (Same as general Village employees). In consideration of the transition period, the Manager is entitled to an additional 5 days, which must be used 1 day per year during the five-year term of this Agreement
Sick Leave	Accrues 12 days per year (7 hours per month)	Same as Village Manager Gilbert
Personal (3 Personal/1 Birthday)	After 1 year of employment, 4 days are given on January 1st of each year. This time does not accrue and is not paid out upon termination. Use it or loose it	Same as Village Manager Gilbert
Long Term Disability	Coverage provided by the Village	Same as Village Manager Gilbert
Accidental Death & Dismemberment	Coverage provided by the Village	Same as Village Manager Gilbert
Life Insurance	2 x base salary (maximum \$300K of coverage) provided by the Village	Same as Village Manager Gilbert
Cafeteria Plan (FSA Dependent Care & Medical Reimbursement)	Voluntary	Same as Village Manager Gilbert
Automobile/Fuel/Insurance	Provided by the Village	Same as Village Manager Gilbert
Electronics	Provided with telephone/tablet with data plan and Village network access	Same as Village Manager Gilbert
Retirement Plan - 401(a)	Village contributes 12% of total compensation. Individual contribution is optional, no waiting period, 100 vested from day one	Same as Village Manager Gilbert
ICMA 457 Deferred Comp. Plan	Voluntary	Same as Village Manager Gilbert
Severance	Accrued at 1 week per every month served up to a max of 20 weeks	20 weeks severance effective as of commencement of agreement
AFLAC	Voluntary supplemental plans (Cancer, Accident, Hospitalization, Short Term Disability). No Village subsidy	Same as Village Manager Gilbert
Colonial	Voluntary supplemental plans (Cancer, Accident, Hospitalization, Life). No Village subsidy	Same as Village Manager Gilbert