



VILLAGE OF BISCAYNE PARK
640 NE 114TH STREET
BISCAYNE PARK, FL 33161
TEL: 305 899 8000 FAX: 305 891 7241
www.biscayneparkfl.gov

AGENDA
SPECIAL COMMISSION MEETING
Church of the Resurrection - 11173 Griffing Blvd.
Biscayne Park, FL 33161
Friday, October 22, 2010 at 7:00PM

Mayor and Commission

Roxanna Ross
Mayor

Bryan Cooper
Vice Mayor

Robert "Bob" Anderson
Commissioner

Steve Bernard
Commissioner

Albert Childress
Commissioner

Ana Garcia
Village Manager

John J. Hearn
Village Attorney

Maria Camara
Village Clerk

- 1 Call to Order
- 2 Roll Call
- 3 Pledge of Allegiance
- 4 Public Comments Related to Agenda Items
- 5 New Business
Village Manager Contract
- 6 Final Public Comments
- 7 Adjournment

In accordance with the provisions of F.S. Section 286.0105, should any person seek to appeal any decision made by the Commission with respect to any matter considered at this meeting, such person will need to ensure that a verbatim record of the proceedings is made; which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act of 1990, persons needing special accommodation to participate in the proceedings should call Village Hall at (305) 899 8000 no later than four (4) days prior to the proceeding for assistance.

DECORUM - Any person making impertinent or slanderous remarks, or who becomes boisterous while addressing the Commission, shall be barred from further audience before the Commission by the presiding officer, unless permission to continue or again address the commission is granted by the majority vote of the Commission members present. No clapping, applauding, heckling or verbal outbursts in support or in opposition to a speaker or his/her remarks shall be permitted. No signs or placards shall be allowed in the Commission Chambers. Please mute or turn off your cell phone or pager at the start of the meeting. Failure to do so may result in being barred from the meeting. Persons exiting the Chamber shall do so quietly.

EMPLOYMENT AGREEMENT

This is an agreement entered into this 30th day of September, 2009 between the Village of Biscayne Park and Ana Garcia to provide for the employment of Ana Garcia as Village Manager of the Village of Biscayne Park, Florida, and to set forth the terms and conditions of her employment and the mutual obligations, rights and duties of each party.

Now, therefore, in consideration of the mutual promises as set forth in this Agreement, the Village of Biscayne Park, Florida (the Village) and Ana Garcia (Village Manager) agree as follows:

Section 1. Duties

A. The Village Commission employs Ana Garcia as Village Manager of the Village of Biscayne Park, Florida to perform the functions and duties as specified in the Village Charter, and to perform such other legally permissible and proper duties as required by the Village Commission from time to time.

B. The Village Manager shall perform the duties of Village Manager of the Village in accordance with the terms, conditions and provisions contained in this Agreement and the Charter in a professional and respectable fashion required of Village Managers generally and as required by the standards of the Code of Ethics of the International City/County Management Association. The Village Manager recognizes that the position of Village Manager is not and cannot be an hourly type employment and agrees to devote that amount of time and energy, which is reasonably necessary for the Village Manager to fully perform the duties required under this Agreement. Thus, the Village Manager shall work as required in order to carry out her responsibilities.

Section 2. Term of Agreement

A. The term of this Agreement shall commence on October 5, 2009. The Village Manager shall serve at the pleasure of the Village Commission. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Village Commission to terminate the services of the Village Manager at any time, subject only to the provisions set forth in Section 5 of this Agreement.

B. The first six (6) months of the Village Manager's employment shall be a probationary term. During the probationary term, the Manager may be terminated immediately, with or without cause, and with no severance benefits.

C. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the Village Manager to resign at any time from the position of Village Manager, subject only to the provisions set forth in Section 6 of this Agreement.

D. This Agreement shall continue until either the Village Commission terminates the Agreement as specified in Section 5 or the Village Manager terminates the Agreement as specified in Section 6.

E. The Village Manager agrees to remain in the exclusive employment of the Village. However, the Village Manager may be permitted to do pro bono work with the approval of the Village Commission.

Section 3. Effective Date

This Agreement shall be effective on October 5, 2009.

Section 4. Salary

A. The Village agrees to pay the Village Manager for her services under this Agreement an annual base salary \$83,000.00 payable in installments at the same time as other Village employees are paid. This salary is subject to all legally required deductions.

B. Prior to the end of the six (6) month probationary term, the Village Commission shall review the Village Manager's performance. If the Village Manager does not pass the probationary period, the Village Manager may be terminated immediately with or without cause and with no severance benefits.

C. The Village Commission agrees to annually review the performance of the Village Manager prior to the anniversary date of this Contract. The evaluation shall be in such written form as the Commission deems appropriate. Any salary increase will be based on performance. The Manager will place on the agenda prior to October 1st of each year an item addressing her evaluation.

D. Nothing in Paragraph 4C shall require the Village to increase the base salary or other benefits of the Village Manager.

Section 5. Termination by the Village and Severance Pay

A. In the event the Village Commission wishes to terminate the Village Manager, it shall do so in accordance with Section 3.03 of the Charter.

B. Should the Village Commission terminate the services of the Village Manager "without cause," then the Village shall pay the Village Manager any accrued vacation and sick time consistent with Section 11 of this Agreement. If termination is "without cause" and subsequent to Manager's probationary period, the Village shall provide ninety (90) days notice of when termination is to take place or, if termination is to take place immediately, pay the Village Manager a lump sum severance pay equal to three (3) month's salary and retirement contribution. Severance pay shall not be construed as compensation for services performed and severance payment will not

include automobile, cell phone allowance or other similar benefits. Said payment, severance benefits and retirement contribution made under this paragraph shall constitute full and complete payment and satisfaction of any claim the Village Manager may have against the Village arising under, or related to this Agreement or otherwise.

C. In the event the Village Manager is terminated for just cause, such termination will take effect immediately and the Village shall have no obligation to pay the amounts outlined in Section 5, Paragraph B of this Agreement except for any accrued and unpaid salary and benefits earned including accrued vacation and sick time consistent with Village Policy. For the purposes of this Agreement, just cause is defined and limited to mean (1) breach of any material term or condition of this Agreement; (2) misconduct in office such as an act of fraud or dishonesty; (3) gross insubordination; (4) willful neglect of duty; (5) a knowing or intentional violation of the International City/County Management Association, Florida or Miami-Dade County conflict of interest and code of ethics laws; (6) moral turpitude; or, (7) conviction of any criminal act (except for minor traffic infractions).

Section 6. Termination by the Village Manager

During the six (6) month probationary period, the Village Manager may terminate this Agreement by providing no less than thirty (30) days written notice. Subsequent to the probation, the Village Manager may terminate this Agreement at any time by delivering to the Mayor and members of the Village Commission a written notice of termination not later than ninety (90) days prior to the effective date of the termination, unless the parties otherwise agree in writing. If the Village Manager terminates this Agreement, then the provisions of Section 5, Paragraph B above, shall not apply. If the Village Manager voluntarily resigns pursuant to this Section, the Village shall pay to the Village Manager all accrued compensation due to Village Manager up to her final day of employment, including any accrued personal time off. The Village shall have no further financial obligation to the Village Manager pursuant to this Agreement. This subsection shall not prevent the Village Manager from collecting any money earned as a result of participation in the Village's deferred retirement program, if any.

Section 7. Automobile Allowance and Communications Equipment

A. The Village Manager is required to be on call for twenty four hour service and therefore, the Village shall provide a \$400.00 per month vehicle allowance for use of her private automobile. The Village agrees to reimburse Village Manager for mileage for travel that the Commission determines is extensive and out of the ordinary, such as seminars outside the South Florida area.

B. At the Village Manager's option, the Village will provide a cell phone with unlimited minutes and internet access or Village Manager may use her own cell phone and be reimbursed the reasonable actual cost of the cell phone/internet access, as approved by the Commission.

Section 8. Dues and Subscriptions

The Village Manager agrees to become a member of the International City/County Management Association and the Florida City/County Management Association within three (3) months from beginning her employment. The Village agrees to pay Village Manager's professional dues for membership in the International City/County Management Association and the Florida City/County Management Association. The Village shall pay other dues and subscriptions on behalf of Village Manager, including necessary continuing education unit credits, as are approved in the Village's annual budget (on a line item basis) or as authorized separately by the Village Commission.

Section 9. Professional Development

The Village agrees to pay for the Village Manager's travel and attendance at conferences requested by the Manager and approved by the Commission consistent with the Village budget or as authorized separately by the Village Commission.

Section 10. Community Involvement

The Village recognizes the desirability of representation in and before local civic and other organizations, and encourages the Village Manager to participate in these organizations to foster a continuing awareness of the Village's activities as well as the community's attitudes and ideas.

Section 11. Time Off

The Village Manager will be credited with eighteen (18) days of annual vacation leave days at the beginning of this Agreement and annually thereafter. The maximum vacation days that may be carried into the next fiscal year shall be fifty percent (50%) of the annual accrual.

The Village Manager will be credited with twelve (12) days of sick leave at the beginning of this Agreement and annually thereafter.

The Village Manager will be entitled to the same paid holidays as all other full-time employees of the Village.

The Village Manager will be paid one hundred percent (100%) for all unused vacation leave and fifty percent (50%) of all unused sick leave upon separation of employment from the Village.

During the six (6) month probationary period, the Village Manager may not use more than three (3) days of vacation.

Accrual of the first year's vacation and sick leave will vest at time of hire.

Section 12. Health and Dental Insurance

The Village Manager shall be provided the same health and dental insurance coverage as provided to all other full-time employees of the Village and the Village shall pay one hundred percent (100%) of the single person premium for that insurance.

Section 13. Retirement

The Village Manager shall be able to participate in the same retirement program as all other management employees of the Village. The retirement program is the State of Florida Retirement System and the Village Manager will be under the Compulsory Senior Management Level.

Section 14. Life Insurance

The Village shall provide a term life insurance policy to the Manager in the amount at least equal to her current salary.

Section 15. Other Customary Benefits

The Village shall afford the Village Manager the right to participate in any other benefits or working conditions as provided for the administrative and management employees of the Village.

Section 16. Indemnification

To the extent permitted by law and as limited by Section 768.28, Florida Statutes, the Village shall defend, save harmless and indemnify the Village Manager against any tort, professional liability claim or demand or other legal action out of an alleged act or omission occurring in connection with the performance of the Village Manager duties so long as the Village Manager is acting within the scope of her employment. The Village, or its insurance carrier, will pay or settle any such claim or suit or judgment rendered thereon.

Section 17. Bonding

The Village agrees to bear the full cost of any fidelity or other bonds as may be required pursuant to the Village Charter.

Section 18. Code of Ethics

Inasmuch as the Village Manager will be an active, full member of the International City/County Management Association (ICMA), the "Code of Ethics" promulgated by ICMA is incorporated herein and by this reference made a part hereof.

Said "Code of Ethics" shall furnish principles to govern the Village Manager's conduct and actions as Village Manager of the Village.

Section 19. Other Terms and Conditions

A. 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.

B. 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.

C. This Agreement shall be binding upon and inure to the benefit of the heirs at law or personal representative of the Village Manager.

D. This Agreement contains the entire Agreement of the parties. It may not be changed, except by an Agreement in writing signed by the parties.

E. Florida law shall govern this Agreement and any litigation which may arise from this Agreement shall be filed and litigated in Miami-Dade County, Florida.

F. Upon Village Manager's death, the Village's obligations under this Agreement shall terminate except for:

1. Transfer of ownership of retirement funds, if any, to her designated beneficiaries;
2. Payment of accrued leave balances in accordance with this Agreement to her designated beneficiaries;
3. Payment of all outstanding hospitalization, medical and dental bills in accordance with Village's insurance policies or plans; and
4. Payment of all life insurance benefits in accordance with the Village's insurance policies or plans.

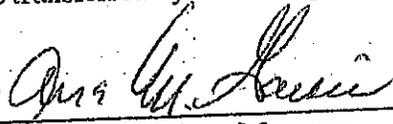
G. The parties acknowledge that each has shared equally in the drafting and preparation of this Agreement and accordingly, no court or administrative hearing officer construing this Agreement shall construe it more strictly against one party than the other and every covenant, term and provision of this Agreement shall be construed simply according to its fair meaning.

H. It is understood and agreed that this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and/or understandings applicable to the matters contained herein and that the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no

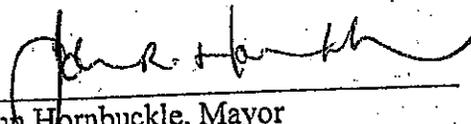
deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

I. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and with equal dignity herewith.

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

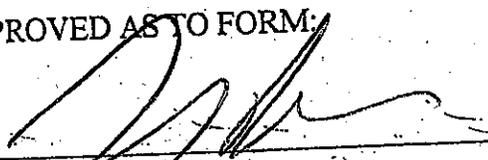


Ana Garcia, Village Manager



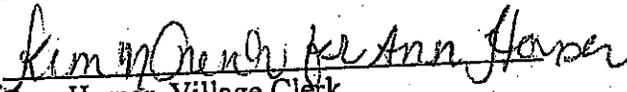
John Hornbuckle, Mayor

APPROVED AS TO FORM:



John J. Hearn, Village Attorney

ATTEST:



Ann Harper, Village Clerk