RESOLUTION NO. 14-04-24

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING AN EMPLOYMENT AGREEMENT BETWEEN THE VILLAGE AND MARIA AGUILAR; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Charter of Islamorada, Village of Islands, Florida (the “Village”) establishes a Council-Manager form of government; and

WHEREAS, pursuant to Section 7 of the Village Charter, the Village Manager is the Chief Administrative Officer of the Village; and

WHEREAS, the Village Council desires to employ Ms. Maria Aguilar as the Village Manager; and

WHEREAS, the Village Council finds that approval of an Employment Agreement between the Village and Ms. Aguilar is in the best interests of the Village.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true, correct and incorporated herein by this reference.

Section 2. Approval of Employment Agreement. The Village Council hereby approves the Employment Agreement between Islamorada, Village of Islands and Ms. Maria Aguilar (the “Agreement”), a copy of which is attached hereto as Exhibit “A,” together with such non-material changes as may be approved as to form and legality by the Village Attorney. The Village Attorney is hereby authorized to finalize the terms and conditions of the Agreement and the Mayor is hereby authorized to execute the Agreement.
Section 3. Effective Date. This resolution shall become effective immediately upon its adoption.

Motion to adopt by Councilman Ken Philipson, seconded by Vice Mayor Deb Gillis.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Ted Blackburn       YES
Vice Mayor Deb Gillis     YES
Councilman Mike Forster   YES
Councilman Ken Philipson  YES
Councilman Dave Purdo     YES

PASSED AND ADOPTED THIS 11th DAY OF APRIL, 2014.

TED BLACKBURN, MAYOR

ATTEST:

SYNTHIA LANKFORD, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS USE ONLY

ROGET V. BRYAN, VILLAGE ATTORNEY
EMPLOYMENT AGREEMENT
VILLAGE MANAGER

This Employment Agreement (the "Agreement") is made and entered into this 11th day of April, 2014, between Islamorada, Village of Islands, Florida, a Florida municipal corporation, (the "Village") and Maria T. Aguilar ("Aguilar" or "Village Manager").

RECATALS:

WHEREAS, Section 7(3) of the Village Charter (the "Charter") requires that there shall be a Village Manager, who shall be the Chief Administrative Officer of the Village; and

WHEREAS, the Village desires to employ the services of Aguilar as Village Manager and Aguilar wishes to accept this employment.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained in this Agreement the parties agree as follows:

Section 1. Duties.

1.1 The Village agrees to employ Aguilar as Village Manager to perform the functions and duties specified in the Village’s Charter and applicable sections of the Village Code and to perform other legally permissible and proper duties and functions without interference.

1.2 The Village Manager is the Chief Administrative Officer of the Village and shall faithfully perform the duties as prescribed in the Village’s Charter and applicable sections of the Village Code and shall comply with all lawful governing body directives, state and federal law, Village policies, rules and ordinances as they exist or may hereafter be amended.

With regard to other employees of the Village, it shall be the duty of the Village Manager to:

(i) Employ on behalf of the Village all other employees of the organization consistent with the policies of the governing body and the ordinances and charter of the Village.

(ii) Direct, assign, reassign and evaluate all of the employees of the Village consistent with the Village’s Charter, ordinances and policies, as well as state and federal law.

(iii) Organize, reorganize and arrange the staff of the Village and to develop and establish internal regulations, rules and procedures which the Village Manager deems necessary for the efficient and effective operation of the Village consistent with the Village’s Charter, ordinances and policies, as well as state and federal law.

(iv) Accept all resignations of employees of the Village consistent with the policies, ordinances, state and federal law, except the Village Manager’s resignation which must be accepted by the Village Council.
1.3 The Village Manager shall carry out the policy directives of the Village Council and shall perform such other legally permissible, ethical, and proper duties as may be assigned by the Village Council from time to time. All duties assigned to the Village Manager by the Village Council shall be appropriate and consistent with the professional role and responsibilities of the Village Manager.

1.4 The Village Council, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints and suggestions called to their attention to the Village Manager for study and/or appropriate action.

Section 2. Salary.

2.1 The Village Manager shall receive an initial annual salary in the amount of One Hundred Twenty Five Thousand ($125,000.00) Dollars payable in equal installments in accordance with the Village’s existing pay periods. If the Village Manager receives a positive Initial Evaluation in accordance with Section 3.1 herein, the Village Manager’s salary shall be increased to One Hundred and Forty Thousand ($140,000.00) Dollars, payable in equal installments in accordance with the Village’s existing pay periods. Such salary increase shall take effect within thirty (30) days after the Initial Evaluation.

2.2 The salary shall be adjusted from time to time by cost-of-living adjustments consistent with any across-the-board adjustments provided to other Village employees.

2.3 This agreement shall be automatically amended to reflect any salary adjustments that are provided or required by the Village’s compensation policies to include all salary adjustments on the same basis as applied to other employees of the Village.

2.4 At any time during the term of the Agreement, the Village may, in its discretion, review and adjust the salary of the Village Manager, but in no event shall the Village Manager be paid less than the salary set forth in Section 2.1 of the Agreement except by mutual written agreement between the Village Manager and the Village. Such adjustments, if any, shall be made pursuant to a lawful Village Council action. In such event, the Village Manager and the Village agree to provide their best efforts and reasonable cooperation to execute a new agreement incorporating the adjusted salary.

Section 3. Performance Evaluations.

3.1 The Village Council shall orally evaluate the performance of the Village Manager at the first regular Village Council meeting in July of 2014 (the “Initial Evaluation”). If the Village Manager receives a positive evaluation from the Village Council, the Village Manager’ shall be entitled to a signing bonus of Five Thousand ($5,000.00) Dollars. Said sum shall be payable to the Village Manager within thirty (30) days after the Initial Evaluation.

3.2 The Village Council shall annually evaluate the performance of the Village Manager within thirty (30) days of the Anniversary Date subject to a process, form, criteria, and format for the evaluation which shall be mutually agreed upon by the Village Manager and Village Council. Any
Village Council member that has not served on the Village Council for a period of twelve (12) months concurrent with the Village Manager’s tenure shall not complete a full written evaluation of the Village Manager but shall complete a form evaluation of the Village Manager’s performance in such format which shall be approved by the Village Manager and Village Council.

3.3 The evaluations specified in Section 3.1 and 3.2 shall be based upon (i) the Village Manager’s performance of the duties specified in Section 1 and (ii) the Village Manager’s achievements of the Village Council’s policy directives.

**Section 4. Insurance/Retirement Benefits/Life Insurance.**

4.1 The Village Manager shall continue to receive the benefits currently provided to Village employees for health insurance including vision, life insurance, dental insurance, and retirement benefits as outlined in the Village’s Employee’s Policies and Procedures Manual dated October 1, 2000 (the “Manual”).

4.2 Except as otherwise provided in this Agreement, the Village Manager shall be entitled to the level of benefits enjoyed by and/or available to other employees of the Village as provided by the Village’s Charter, ordinances policies, or personnel rules and regulations or other practices.

4.3 Should the Manual be amended by action of the Village Council, the Village Manager’s benefits listed in Section 4.1 shall be changed to match those benefits provided in the amended Manual, provided such changes do not result in any decreased benefits as provided for under Section 4.1.

**Section 5. Professional Dues and Expenses.**

5.1 The Village agrees to budget and pay for such professional dues and subscriptions of the Village Manager necessary for continuation and full participation in national, regional, state and local associations and organizations that are necessary and desirable for the Village Manager’s continued government management and government finance professional participation, growth and advancement.

5.2 The Village acknowledges the value of having the Village Manager participate and be directly involved in local civic clubs or organizations. Accordingly, the Village shall pay for the reasonable membership fees and/or dues to enable the Village Manager to become an active member in local civic clubs or organizations.

5.3 The Village recognizes that certain expenses of a non-personal but job-related nature are incurred by the Village Manager and agrees to reimburse or to pay said general expenses. Such expenses may include meals where Village business is being discussed or conducted and participation in social events of various organizations when representing the Village. Such expenditures are subject to annual budget constraints as well as state and Village ethics and purchasing policies.
Section 6. Automobile.

6.1 The Village shall reimburse the Village Manager at the IRS standard mileage rate for any business use of her personal vehicle.

Section 7. Annual Leave, Sick Leave and Holidays.

7.1 The Village Manager shall continue to receive the benefits currently provided to Village employees for annual leave, sick leave and holidays as outlined in the Manual.

7.2 The Village Manager’s accrual of the benefits specified in Subsection 7.1 shall be based upon the Aguilar’s initial employment date with the Village of August 2, 2011. Additionally, Aguilar’s existing balances of accrued and unused sick and vacation leave shall not be affected by the execution of this Agreement.

7.3 The Village Manager shall accrue sick leave and vacation leave at the rate provided or available to any other employees of the Village and under the same rules and provisions applicable to other employees.

Section 8. Travel.

8.1 The Village agrees to budget and pay for travel and subsistence expenses of the Village Manager for professional and official travel, meetings and occasions to adequately continue the professional development of the Village Manager and to pursue necessary official functions for the Village, including but not limited to national, regional, state and local governmental associations, groups and committees in which the Village Manager serves as a member.

8.2 The Village also agrees to budget and pay for travel and subsistence expenses of the Village Manager for short courses, institutes and seminars that are necessary for the Village Manager’s professional development and for the good of the Village.

Section 9. Equipment.

9.1 Recognizing the importance of constant communication and maximum productivity, the Village shall provide the Village Manager, all necessary equipment and software required for the Village Manager to perform her duties and to maintain communication with Village staff and officials as well as other individuals who are doing business with the Village. Upon termination of the Village Manager’s employment, all equipment shall be returned to the Village.

Section 10. Days.

10.1 Unless otherwise specified, any reference to days in this Agreement shall mean calendar days.
Section 11. Indemnification.

11.1 To the extent permitted by law, the Village shall defend, save harmless, and indemnify the Village Manager against any action, claim, demand or other legal action, whether groundless or otherwise arising directly or indirectly out of the Manager’s duties or position with the Village.

11.2 The aforesaid indemnification only applies to the extent that the costs, expenses or damages exceed monies covered by insurance including attorneys’ fees.

11.3 Notwithstanding the provision of Section 11.1, the Village shall not be obligated to indemnify or save harmless the Village Manager from claims of any nature arising out of the malfeasance of the Village Manager, or from injury or property damage caused by the intentional misconduct of the Village Manager.

11.4 This indemnification provision shall survive the termination of this Agreement.

Section 12. Bonds.

12.1 The Village shall pay for the cost of any fidelity or other bonds for the Village Manager required by any law, ordinance or the Village Charter.

Section 13. Reduction of Compensation.

13.1 The Village Council shall not at any time during the term of this Agreement reduce the salary provided to the Village Manager below any percentage equally applied to all employees during the annual budget process.

13.2 The Village Council shall not at any time during the term of this Agreement reduce the benefits provided to the Village Manager below those that are equally applied to all employees during the annual budget process.


14.1 The employment provided for by this Agreement shall be the Village Manager’s primary employment. The Village Manager may not accept temporary, outside professional employment except for local, civic, non-profit organizations, which will not in any way interfere with the performance of or the Village Manager's availability for the performance of, the Village Manager's duties hereunder. The term "outside professional employment" means professional services provided to third parties for which the Village Manager is compensated and which are performed on the Village Manager's time off.

Section 15. Term.

15.1 The term of this Agreement shall commence on April 11, 2014 and shall remain in effect until terminated by either the Village Council or Village Manager as provided for in Section 16 of this Agreement.

15.2 For purposes of this Agreement, the Village Manager’s Anniversary Date shall be April 11 (starting in April of 2014).
**Section 16. Termination.**

16.1 In accordance with the Charter, the Village 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 this Agreement at any time.

16.2 For the purposes of this Agreement, termination shall occur when the majority of the Village Council votes to terminate the Village Manager in accordance with the provisions of Section 7(2) of the Charter at a properly posted and duly authorized public meeting.

**Section 17. Termination Without Cause.**

17.1 If the Village, citizens or legislature acts to amend any provisions of the Charter pertaining to the role, powers, duties, authority, responsibilities of the Village Manager’s position that substantially changes the form of government, the Village Manager shall have the right to declare that such amendments constitute termination.

17.2 If the Village reduces the base salary, compensation or any other financial benefit of the Village Manager, unless it is applied in no greater percentage than the average reduction of all department heads, such action shall constitute a breach of this agreement and will be regarded as a termination.

17.3 If the Village Manager resigns following an offer to accept resignation, as representative of the majority of the governing body that the Village Manager resign, whether formal or informal, by the Village, then the Village Manager may declare a termination as of the date of the suggestion.

17.4 If the Village Manager is unable to perform her duties as specified in Section 1 of this Agreement for a consecutive period of sixty (60) days due to disability, sickness, accident, or injury, as certified by a physician, the Village Council may elect to terminate this Agreement. In the event of the Village Manager’s death, this Agreement shall be deemed terminated.

**Section 18. Termination For Cause.**

18.1 If the Village Manager is terminated for cause, the Village shall have no obligation to pay severance under this section.

18.2 For the purposes of this Section “for cause” shall be defined as: (i) breach by the Village Manager of any material term or condition of this Agreement, (ii) violation of any applicable laws or codes, (iii) misconduct, (iv) gross insubordination or (v) willful neglect of duty.

**Section 19. Severance.**

19.1 Severance shall be paid to the Village Manager when employment is terminated as defined in Section 17 herein.
19.2 If the Village Manager is terminated as defined in Section 17, the Village shall provide a minimum severance payment equal to twenty (20) weeks’ salary at the then current rate of pay. This severance shall be paid in a lump sum or in a continuation of salary on the existing biweekly basis, at the Village Manager’s option.

19.3 The Village Manager shall also be compensated for all sick leave, vacation leave, and all paid holidays in accordance with policies and procedures established for all employees of the Village.

19.4 The Village Manager shall provide the Village direction as to payment by lump sum or installment payments within thirty (30) days of such termination as defined in Section 17 herein.

Section 20. Resignation.

20.1 In the event that the Village Manager voluntarily resigns his/her position with the, the Village Manager shall provide a minimum of thirty (30) days’ notice unless the Village Council and Village Manager otherwise agree.

20.2 If the Village Manager resigns, then the Village is not obligated to pay severance under Section 19; however, the Village Manager shall be compensated for all sick leave, vacation leave and all paid holidays in accordance with policies and procedures established for all employees of the Village.

Section 21. Conflict of Interest Prohibition.

21.1 Village Manager shall not without the express prior written approval of the Village Council, individually, as a partner, joint venturer, officer or shareholder, invest or participate in any business venture conducting business in the corporate limits of Monroe County, except for stock ownership in any company whose capital stock is publicly held and regularly traded.

21.2 The Village Manager shall abide by the provisions of Chapter 112, Florida Statutes, the Code of Ethics for Public Officers and Employees.


22.1 Complete Agreement. It is understood and agreed that this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and that the parties agree that there are no commitments, agreement, 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.

22.2 Amendment. 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.
22.3 **Severability.** 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.

22.4 **No Waiver.** 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.

22.5 **Non-Assignment.** The rights and obligations herein granted are personal in nature and cannot be transferred or assigned by the Village Manager.

22.6 **Governing Law.** Florida law shall govern this Agreement and any litigation which may arise from this Agreement shall be filed and litigated in the Circuit Court in and for Monroe County, Florida, Upper Keys Division or, if in Federal Court, in the Southern District of Florida.

22.7 **Waiver of Jury Trial.** Both the Village and the Village Manager knowingly, voluntarily, and irrevocably waive their right to a trial by jury in any civil proceedings that may be initiated by either party with respect to any term or condition of this Agreement.

22.8 **Notice.** Notice to either party shall be deemed given if sent by certified mail, return receipt requested, by recognized public or private postal facilities, by hand delivery or delivered at a Village Council meeting. Notice shall be sent as follows:

For the Village:  
Ted Blackburn, Mayor  
Islamorada, Village of Islands  
86800 Overseas Highway  
Islamorada, FL 33036  
Telephone: (305) 664-6400  
Facsimile: (305) 664-6464

With a copy to:  
Roget V. Bryan, Village Attorney  
Islamorada, Village of Islands  
86800 Overseas Highway  
Islamorada, FL 33036  
Telephone: (305) 664-6400  
Facsimile: (305) 664-6464

For the Village Manager:  
Maria T. Aguilar, Village Manager  
Islamorada, Village of Islands  
86800 Overseas Highway  
Islamorada, FL 33036  
Telephone: (305) 664-6410  
Facsimile: (305) 664-6464
IN WITNESS WHEREOF, the Village, by signature of the Mayor as authorized by Council Resolution No. 14-04-24 on 4/10/2014, and Village Manager have signed and executed this Agreement the day and year first above written.

ISLAMORADA, VILLAGE OF ISLANDS

By: ________________________________
    Ted Blackburn, Mayor

ATTEST:

_______________________________
Synthia Lankford, Village Clerk

Approved as to form and legal sufficiency
For the use of the Village Council only:

_______________________________
Roget V. Bryan, Village Attorney

VILLAGE MANAGER

_______________________________
Maria T. Aguilar