

TOWN OF GOLDEN BEACH, FLORIDA

RESOLUTION NO. 2577.18

A RESOLUTION OF THE TOWN OF GOLDEN BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE TOWN MANAGER'S EMPLOYMENT AGREEMENT ATTACHED AS EXHIBIT "A" TO THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Alexander Diaz is employed by the Town of Golden Beach (the "Town") as Town Manager pursuant to an Employment Agreement effective from and after November 10, 2010 (the "Agreement"); and

WHEREAS, the Town Council and the Town Manager wish to amend the Agreement by entering into the Amendment to Town Manager's Employment Agreement attached hereto as Exhibit "A" to this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF GOLDEN BEACH, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. Each of the above stated recitals are hereby adopted, confirmed and incorporated herein.

Section 2. Approval. The Town Council approves the Amendment to Town Manager's Employment Agreement attached hereto as Exhibit "A."

Section 3. Effective Date. This Resolution shall be effective immediately upon adoption.

[Remainder of Page Intentionally Left Blank]

The Motion to adopt the foregoing Resolution was offered by Councilmember Rojas, seconded by Councilmember Bernstein, and on roll call the following vote ensued:


Mayor Glenn Singer	<u>Aye</u>
Vice Mayor Jaime Mendal	<u>Aye</u>
Councilmember Judy Lusskin	<u>Aye</u>
Councilmember Kenneth Bernstein	<u>Aye</u>
Councilmember Amy Isackson-Rojas	<u>Aye</u>

PASSED AND ADOPTED by the Town Council of the Town of Golden Beach,
Florida this 27th day of September, 2018.



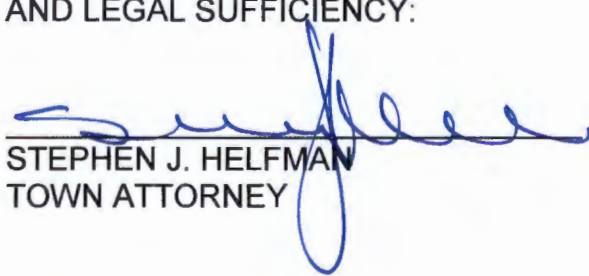
MAYOR GLENN SINGER

ATTEST:



LISSETTE PEREZ
TOWN CLERK

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:



STEPHEN J. HELFMAN
TOWN ATTORNEY



TOWN OF GOLDEN BEACH

One Golden Beach Drive
Golden Beach, FL 33160

MEMORANDUM

Date: September 27, 2018

To: Town Council Members

From: Honorable Glenn Singer
Town Mayor

Subject: Resolution No. 2577.8- Approval of an Amendment to the
Town's Manager's Employment Agreement

Item Number:

9

Recommendation:

It is recommended that the Town Council adopt the attached Resolution No. 2577.18 as presented.

Background:

Alexander Diaz has been serving as our Town Manager since his appointment in March of 2007. During his tenure, the Town has realized significant improvements in both the values of our community and the infrastructure of our Town. In a little less than 10 years, the manager has been able to leverage a \$14.5 million dollar General Obligation Bond to execute and deliver over \$44 million dollars in projects. He has been able to do so all while lowering the Town's millage rate. The list of the Manager's accomplishments are too great to list individually but there is no doubt that through his leadership the Town has developed into the beautiful community that it is today.

The Manager has requested that the Town re-evaluate and amend his current contract, which expired in 2013 (attached). After considering his request and negotiating (down) some of the terms he was seeking, we were able to agree to the concessions found in the attached Amendment.

Fiscal Impact:

The Amendment provides for a salary increase, re-instates a CIP bonus, and makes some changes to the benefits as enumerated in the attached Employment Agreement Amendment.

EMPLOYMENT AGREEMENT TOWN MANAGER

THIS AGREEMENT (the "Agreement") is made and entered into between the Town of Golden Beach (the "Town") and Alexander Diaz (the "Employee"):

BACKGROUND

The Town wants to employ the services of Alexander Diaz as Town Manager and the Employee wishes to accept employment as the Town Manager under the terms and conditions set forth herein. The Town and the Employee desire to provide for certain procedures and requirements regarding the employment of the Employee by the Town.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the Town and the Employee agree to the following:

SECTION 1. DUTIES

The Town agrees to employ Alexander Diaz as Town Manager of the Town of Golden Beach to perform the duties and exercise the powers as prescribed by state law, the Town Charter and the Town Code, and to perform such other legally permissible and proper duties and functions as assigned by the Town Council from time to time.

SECTION 2. TERM AND COMMENCEMENT DATE

2.1 This Agreement shall have a term commencing on November 1, 2010 and ending on October 31, 2013, unless earlier terminated as provided in this Agreement.

2.2 Nothing in this Agreement shall prevent, limit or otherwise interfere with the absolute and unlimited right of the Town Council to terminate the services of the Employee at any time, with or without cause, subject only to the provisions set forth in Section 3 of this Agreement, and the obligation of the Town to provide the Employee with at least 30 days prior notice of termination.

SECTION 3. TERMINATION BY TOWN AND SEVERANCE PAY

3.1 If the Employee is terminated by the Town Council without cause during such time the Employee is willing and able to perform his duties under this Agreement, the Town agrees to pay the Employee a lump sum cash payment as set forth below ("Severance Pay"):

3.1.1 Six (6) months of his aggregate salary together with the pro-rata share of contributions under Section 9 of this Agreement if terminated during the first year of this Agreement.

3.1.2 Nine (9) months of his aggregate salary together with the pro-rata share of contributions under Section 9 of this Agreement if terminated during the second year of this Agreement .

3.1.3 Twelve (12) months of his aggregate salary together with the pro-rata share of contributions under Section 9 of this Agreement if terminated during the third year of this Agreement .

In such event, the Employee shall also receive payment for any and all accrued vacation, accrued sick leave, and floating holiday time in accordance with the Town's policies governing other general employees for the same time period provided for Severance Pay. Provided that Section 3.2 is not applicable, the Town shall also continue to provide medical coverage for the Employee for the same time period as required for Severance Pay, in the same manner and in the same amount as the Employee received at the time of termination, pursuant to subsections 10.1 and 10.3 below. Severance Pay shall be paid within 30 working days of termination. After the payments described above are made, the Town shall have no further financial obligation to Employee.

3.2 In the event the Employee is terminated with cause, including conduct unbecoming a public official, which shall include but not be limited to criminal conduct, the Town shall have no obligation to pay the Severance Pay designated in subsection 3.1 above. If the Employee's employment is terminated pursuant to this subsection, then the Town shall pay to the Employee only accrued vacation, accrued sick leave, and floating holiday time due to the Employee as of the date of termination. After the payment described in the immediately preceding sentence, the Town shall have no further financial obligation to the Employee pursuant to this Agreement.

SECTION 4. TERMINATION BY EMPLOYEE

In the event that the Employee voluntarily resigns his position, the Employee shall give the Town at least sixty (60) days written notice prior to the effective date of such resignation. If the Employee voluntarily resigns, the Employee shall not be entitled to receive Severance Pay, unless otherwise agreed to by the parties. However, the Employee shall be entitled to accrued vacation, accrued sick leave, and floating holiday time as of the date of resignation.

SECTION 5. COMPENSATION

5.1 The Employee's salary shall be One-Hundred Fifty-Five Thousand Four Hundred and Five Dollars and No Cents (\$155,405.00) per year, which shall be payable in installments at the same time as other Town employees are paid.

5.2 The Employee shall be entitled to receive the same cost of living increases as are granted to other non-bargaining unit Town employees, as granted from and after November 1, 2010.

5.3 In addition to salary increases granted pursuant to subsection 5.2, during the second and third year of the Agreement, the Town Council may evaluate the performance of the Employee to determine any adjustment in annual salary and/or benefits at least once annually on or before the Town's annual Budget Process (September 2011 and September 2012) pursuant to the terms of Section 6 of this Agreement. Any additional adjustment in said annual salary and/or benefits shall be based upon the result of the performance evaluation, but in no event will the Employee's salary be reduced below the annual salary provided for in Section 5.1 above.

5.4 The Employee may be entitled to an annual bonus of up to Twenty-Thousand Dollars and No Cents (\$20,000.00) at the sole discretion of the Mayor and Town Council. If the Mayor and Town Council determine that the Employee is entitled to an annual bonus, such bonus shall be paid to the Employee on or before September 30th of that year.

5.5 On February 1, 2011, the Employee will be entitled to a bonus payment of Twenty-Five Thousand Dollars and No Cents (\$25,000.00) for his performance in overseeing the successful completion of the Town's Capital Improvement Project ("CIP"). The granting of this bonus will be at the reasonable discretion of the Town Council and based upon the degree to which the Employee's personal efforts contributed to the timely and cost efficient completion of the CIP.

SECTION 6. PERFORMANCE EVALUATION

6.1 The Town Council may review and evaluate the performance of the Employee at least once annually in advance of the adoption of the annual operating budget. Said review and evaluation shall be in accordance with specific criteria developed jointly by the Town and the Employee. Said criteria may be added to or deleted from as the Town Council may from time to time determine, in consultation with the Employee.

6.2 Prior to the beginning of each fiscal year, the Town Council and the Employee may define such goals and performance objectives which they determine necessary for the proper operation of the Town and in attainment of the Town Council's policy objectives and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. They shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations



provided.

6.3 In effecting the provisions of this section, the Town Council and the Employee mutually agree to abide by the provisions of applicable law.

SECTION 7. HOURS OF WORK

7.1 The Employee shall be classified as a full-time employee and must work a minimum of 40 hours per week. The Employee shall be on-call to handle Town emergencies. The Employee agrees to remain in the exclusive employ of the Town of Golden Beach and shall not accept any other employment during the term of this Agreement. Subject to the terms of this provision and applicable laws governing full-time employee's, the Town and the Town Mayor shall respect the Employee as a professional and shall allow him to manage his time within the terms of this provision. The Employee further agrees to devote that amount of time and energy which is reasonably necessary for the Employee to faithfully perform his duties under this Agreement.

7.2 The term "Employ" as used in Section 7.1 above, shall not be construed to include teaching, business (as related to active license(s) that the Employee has discussed and disclosed in the course of his hiring), writing, pro-bono activities, or consulting performed on time off, and all such activities shall be limited and subject to approval by the Mayor.

SECTION 8. AUTOMOBILE

The Employee shall be provided with an annual vehicle allowance of Thirteen Thousand Three Hundred and Forty Three Dollars and No Cents (\$13,343.00) during the Agreement term. The Employee shall be responsible for all maintenance, insurance, and other costs associated with his vehicle.

SECTION 9. RETIREMENT/DEFERRED COMPENSATION

9.1 The Town shall deposit regular contributions in an amount equal to the maximum employee contributions permitted by IRS regulations (which as of the date of this Agreement is Sixteen Thousand Five-Hundred Dollars and No Cents (\$16,500.00) annually) into the Employee's 401(k) Deferred Compensation Fund account with the International City Manager Association Pension Fund.

9.2 The Town shall contribute Seven Thousand Seven Hundred Dollars and No Cents (\$7,700.00) per year into the Employee's 457 Deferred Compensation Plan with the International City Manager Association Pension Fund. Said contribution shall be deposited in equal proportionate amounts on each pay period.

9.3 The Town shall contribute Eight Thousand Dollars and No Cents (\$8,000.00) per year into a Deferred Compensation plan or such other retirement plan or tax sheltered annuity program as may be designated by the Employee that complies with all Federal and State laws and regulations. Said contribution shall be deposited in equal proportionate amounts



monthly or quarterly as approved by the Mayor.

SECTION 10. INSURANCE

10.1 The Town shall provide the Employee with insurance benefits, including major medical, hospitalization, dental and optical insurance, in the same manner as provided to all other general Town employees. The Town shall be responsible for all costs associated with said coverage and shall pay 100% of all such Employee coverage from the provider offered by the Town.

10.2 The Employee shall also receive: (a) short-term and long-term disability insurance policies, with bridging, providing sixty-six percent (66%) of salary; and (b) term life insurance in the amount of the Employee's annual salary provided for in Section 5.1 above.

10.3 The Town shall make the required insurance premium payments for the Employee's insurance benefits outlined above.

SECTION 11. INDEMNIFICATION

Subject to applicable laws, the Town shall indemnify and defend the Employee against any tort, professional liability claim, demand or any other legal action (groundless or otherwise) arising out of an alleged act or omission occurring within the scope of the Employee's performance of his official duties as Town Manager, except for intentional acts or grossly negligent acts or omission, and except for acts outside the scope of his duties and responsibilities.

SECTION 12. VACATION, SICK LEAVE AND HOLIDAYS

12.1. Vacation. The Employee shall be entitled to four weeks of vacation per year, accrued in the same manner as other general employees. The Employee shall schedule vacation(s) at a time(s) approved by the Mayor.

12.2 Sick Leave. The Employee shall be entitled to two weeks of sick leave per year, accrued in the same manner as other general employees.

12.3 Administrative Leave. At the sole discretion of the Mayor, the Employee may be provided with up to forty (40) hours of paid administrative leave where such leave would have no adverse impact upon the operation of the Town government.

SECTION 13. PROFESSIONAL DEVELOPMENT

13.1 Subject to Town policy and state law, the Town agrees to pay the reasonable professional dues and subscriptions of the Employee necessary for his participation as a member in national, regional, state and local professional associations and organizations necessary and desirable for his professional participation, growth and advancement, and for the good of the Town. Employee shall not hold office in any local, state, regional or national

professional association or organization without prior approval of the Town Council.

13.2 Subject to Town policy and state law, the Town agrees to pay for the Employee's reasonable and customary travel and subsistence expenses for official travel, meetings, and seminars necessary to pursue professional, official or other Town functions, subject to the condition that all such travel and expenses must be pre-approved by the Mayor or the Town Council.

13.3 Subject to the Town Mayor's prior written approval, the Town agrees to pay for the Employee's reasonable and customary travel and subsistence expenses for those courses, institutes, and seminars that are necessary for professional development and for the good of the Employee in the performance of his Town duties.

13.4 The Town shall bear the full cost of any fidelity or other bond required of the Employee under any law or ordinance.

13.5 The Town recognizes that certain incidental out-of-pocket expenses of a non-personal and generally job affiliated nature (i.e. parking, tolls, etc.) may be incurred by the Employee and hereby agrees to reimburse or pay documented general expenses upon submittal of appropriate receipts approved by the Mayor.

SECTION 14. COMPUTER/EQUIPMENT

14.1 The Town shall pay for all equipment, systems software, and portable communications equipment necessary for the Employee, subject to prior written approval of the Town Mayor. This will include a computer (desktop) for the Employee's Town Hall office which shall remain the property of the Town. This shall also include a computer (laptop) system for the Employee's use while on Town Travel or from the Employee's residence for the purpose of performing Town business during non-office hours. Upon separation of service from the Town, the laptop equipment shall remain the property of the Town.

14.2 The Town shall provide the Employee portable communications equipment in the form of a Blackberry/cellular device and a mobile wireless air-card, subject to prior approval of the Town Mayor. The Employee will be allowed to secure service for this device under the Town communications plan or other plan approved by the Mayor, including employees' existing service plan. The device shall remain the Town's property upon the separation of service from the Town. The Employee, shall at his cost, be entitled to retain the phone numbers. The device and service shall be for Town business only, unless the service plan selected is for unlimited time.

SECTION 15. NOTICE

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



Town

Town Mayor
Town of Golden Beach
1 Golden Beach Drive
Golden Beach, Florida 33160

Employee

Alexander Diaz
700 N.E. 63rd Street
Penthouse D-5
Miami, Florida 33138

Town Attorney

Weiss, Serota, Helfman, Pastoriza & Guedes, P.L.
2525 Ponce De Leon Boulevard, Suite 700
Coral Gables, Florida 33134

SECTION 16. OTHER TERMS AND CONDITIONS

16.1 This Agreement supersedes any oral representation and/or other prior written agreements, including the Employee's prior employment agreement with the Town dated May 15, 2007, as amended on February 5, 2008.

16.2 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.

16.3 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.

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

16.5 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.

16.6 This Agreement shall be governed by Florida law.

16.7 The parties waive the privilege of venue and agree that any litigation involving this Agreement shall take place in the Eleventh Judicial circuit in and for Miami-Dade County, Florida, or in Federal Court, the Court for the Southern District of Florida.

16.8 This Agreement shall be effective from and after November 1, 2010.

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.

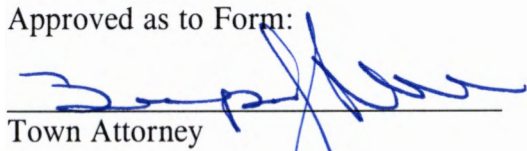


Attest:


Interim Town Clerk

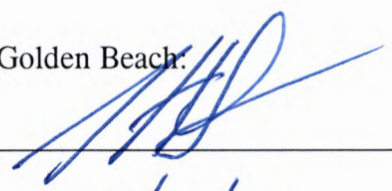
Date: 12/01/2010

Approved as to Form:


Town Attorney


Date: 12/02/2010

Town of Golden Beach:

By: 
Mayor

Date: 11/29/2010

Employee:


Alexander Diaz

Date: _____

