

**THIS EMPLOYMENT AGREEMENT** (the "Agreement") is made and entered into as of the 20<sup>th</sup> April 2021 by and between the **City of North Miami Beach, Florida**, a Florida municipal corporation located in Miami-Dade County ( the "City"), and **Arthur Sorey, III**, an individual residing in Miami-Dade County ("Employee" or "City Manager"). The City and the Employee may be referred to herein individually as a "Party" and collectively as the "Parties".

## RECITALS

**WHEREAS**, on April 20, 2021, the City Commission appointed Employee as City Manager; and

**WHEREAS**, the Parties desire to enter into an initial Employment Agreement, which set forth the terms and conditions of Employee's employment as City Manager for the period of four (4) years commencing on April 20, 2021 and ending April 20, 2025; and

**NOW THEREFORE**, in consideration of foregoing recitals, which are incorporated herein and made a part hereof by this reference, the mutual promises set forth in this Agreement, and other good and valuable consideration, the sufficiency of which the Parties hereby acknowledge, the City and City Manager agree as follows:

### Section 1. Duties

A. City Manager shall perform the functions and duties of his position as specified in Section 3.1.1 of the City Charter and shall perform such other legally permissible and proper duties and functions as the City Commission shall assign from time to time.

B. The City Manager shall discharge his duties in accordance with this Agreement, the City Charter and Code, and any applicable City employment policies, as may be established and amended from time to time by the City Commission, and in a professional and respectable fashion as required of city Managers generally.

C. City Manager acknowledges that the duties of City Manager will be variable and may require work after the City's regular business hours, and on nights, weekend and holidays. City Manager agrees to devote City Manager's best efforts and the time and energy necessary to perform fully the duties of City manager as required under this Agreement and the City Charter and Code.

D. In the event that City Manager is temporarily unable to perform his duties, City Manager may designate by letter filed with the City Clerk, a qualified administrative officer of the City in accordance with Section 3.1.2 of the City Charter. In the event of failure of the City Manager to make such designation, the City Commission may by resolution appoint an officer of the City to perform the duties of City Manager until he is able to perform his duties.

### Section 2. Term of Agreement

A. This Agreement shall be effective April 20, 2021. The initial term of this Agreement shall be four (4) years commencing on April 20, 2021 and shall expire on April 20, 2025 (the "Term"). However, Employee first day of work shall be April 22, 2021. The Term may be extended at the will of the City Commission for successive one-year periods. City Manager acknowledges that employment with the City is on an at-will basis and that City Manager shall serve at the pleasure of the City Commission. Nothing in this Agreement shall prevent, limit and/or otherwise interfere with the right of the City Commission to terminate City Manager at any time, subject to the City Charter.

B. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Manager to resign at any time from the position of City Manager, subject only to the provisions set forth in Section 5 of this Agreement.

### **Section 3. Salary**

A. The City agrees to pay the City Manager as compensation for his services under this Agreement an initial annual salary of \$240,000.00 payable in weekly installments at the same time as when other City employees are paid. This salary is subject to all legally required deductions. Beginning April 20, 2022 and each April 20th thereafter that the City Manager is employed by the city, the City Manager shall receive a cost-of-living adjustment of three percent (3%) per year.

B. The City Commission may annually review the City Manager's salary and/or other benefits and may increase same in such amounts and to such an extent as the City Commission may determine desirable on the basis of the performance of the City Manager, in the City Commission's role and absolute discretion. Such evaluation shall be in such form as the Commission deems appropriate and may be made each year beginning in 2022, prior to April 22, in accordance with procedures established by City Commission for the duration of this Agreement. Nothing in this section shall require the City to increase the compensation and /or other benefits of the City Manager.

### **Section 4. Termination by the City**

A. In the event the City Commission wishes to terminate the City Manager, it shall do so in accordance with Section 3.1 of the Charter.

B. In the event the City Commission wishes to terminate the City Manager without cause, the City Manager shall receive a lump sum severance pay equal to twenty (20) weeks of his regular base salary at the time of termination (the "Severance Pay"). In such event, the City also continue to pay the premium for the City Manager's health insurance for twenty (20) weeks. The City shall not provide the City Manager with his automobile allowance, cellular telephone allowance, or any other benefit or reimbursement (except that specifically set forth in this paragraph) beyond the date of his termination. The Severance Pay shall be paid to the City Manager within thirty (30) days of the City Manager's termination, provided the City Manager first executes a release and waiver of claims releasing the City from any liability in connection with his employment with the City.

C. Notwithstanding the provisions of Section 4.B above, in the event City Manager is terminated for misconduct as defined in Section 443.036 (30), Florida Statutes, the City shall have no obligations to pay the City Manager any severance pay. Misconduct includes, but is not limited to: (i) breach of any material term or condition of this Agreement; (ii) conviction of a felony; (iii) gross insubordination; (iv) willful neglect of duty; or (v) adjudicated violation of the Florida Code of Ethics, the City Charter, or the City's Code of Ethics Ordinance.

### **Section 5. Termination by the City Manager**

A. In the event that the City Manager voluntarily resigns or retires, the City Manager shall provide the City with sixty (60) days advance written notice, unless the Parties agree in writing to a different period of

time. In the event of resignation by the City Manager under this Section, the City Manager shall not be entitled to receive severance package, but the City shall pay the City Manager for his accrued unused vacation and sick leave (if applicable ) calculated at the City Manager's rate of pay in effect upon the date of resignation in accordance with City Policy for non-union civilian employees.

B. In the event the City Manager voluntarily resigns with less than 60 days advance written notice, the City Commission may elect to terminate the City Manager immediately or allow the City Manager to continue to serve until the date specified in the City Manager's resignation. In the event of a resignation or termination under this paragraph, notwithstanding any other provisions of this Section, the City Manager shall not be entitled to receive either severance payment of vacation or sick leave unless the City Commission authorizes a payment for accrued unused leave.

C. If the City Manager is unable to perform his duties as specified in Section 1 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 City Commission may terminate this Agreement. If the City Manager takes FMLA-approved leave and exhausts his statutorily protected, FMLA-approved leave in any one-year period, the City Commission may terminate this Agreement. In the event of the City Manager's death, this Agreement shall be terminated. If this Agreement is terminated under this Section, the City Manager shall not be entitled to severance pay.

D. Unless otherwise specified in this Agreement, or required by law, upon termination of this Agreement, the City Manager or his beneficiary shall be entitled to receive payment of any accrued or unused sick or vacation leave in accordance with the terms of this Agreement, as may be amended from time to time.

## **Section 6. Automobile and Cell Phone Allowances**

### **A. Vehicle:**

1. The City agrees to provide the City Manager with a City-owned vehicle at no cost to Employee and to pay for the maintenance of said vehicle.
2. City Manager shall maintain an automobile policy covering his use of the City-owned vehicle which names the city as an additional insured, and which provide bodily injury coverage of at least \$200,000 per accident.
3. City Manager shall immediately report to the Human Resources Director and the City Attorney any accident in which the vehicle is involved.
4. City Manager shall not allow anyone other than himself, or an individual authorized by the City Commission, to drive the City-owned vehicle.

**B. Cell Phone:** The City shall provide City Manager with a cell phone allowance of \$100.00 per month.

**Section 7. Vacation, Holidays and Sick Leave**

- A. The City Manager shall accrue 160 hours of annual leave per year.
- B. The City Manager shall accrue 96 hours of sick leave per year.
- C. Accrual and payout of annual and sick leave shall be as set forth in the City's Employee manual.
- D. The City Manager shall be entitled to City-sponsored health insurance on the same terms and at the same cost as provided to other Tier 1 Employees of the City.

**Section 8. Health, Dental, Life, Disability and Professional Insurance**

A. The City Manager shall be entitled to City-sponsored health insurance on the same terms and at the same cost as provided to other Tier 1 employees of the City.

B. The City shall provide the City Manager with life insurance in the amount of two hundred thousand dollars (\$200,000.00) at no cost to the City Manager. At separation, the City's obligation to pay for Said policy shall cease. The Policy shall be portable, and the City Manager may keep the policy following separation, provided he pays the premium for said policy.

C. The City shall provide the City Manager with short and long term disability insurance coverage at no cost to the City Manager.

**Section 9. Retirement**

The City Manager shall be permitted to participate in the General Management Employees Retirement Plan subject to the terms and conditions of such Plan.

**Section 10. Professional Development**

The City shall pay City Manager's reasonable dues, subscriptions and travel expense along with subsistence expenses for continuing education, membership and participation in professional associations and organizations.

**Section 11. Employee Cooperation and Obligations**

- A. In the event of actual or threatened litigation and/or administrative proceedings involving the City which arise out of the operation or actions which occurred or are alleged to have occurred while City Manager performed his duties for the City, City Manager will cooperate with the City and its counsel in assisting the City in every legal manner to prevail in said action.
- B. City Manager further agrees that unless required by law, he will not cooperate with or assist any party, person, or entity who has, had or may have, or asserts that he has or may have any claim or any nature against the City, its agents, officers, employees, City Commissioners or

representatives, without the express written permission of the City Commission, or its designee.

- C. City Manager shall not disclose any confidential information involving the business of the City to any person or entity without the written permission of the City Commission, or its designee, unless required to do so by law.
- D. Restrictions set forth in subparagraphs B and C above shall not apply in instances of governmental entities with jurisdiction over a claim of a violation of law.
- E. The commitments made in Section 11 herein shall survive the termination of this Agreement and be enforceable by the City so long as the law allows.

**Section 12. Indemnification**

To the extent permitted by law and as limited by Section 768.28, Florida Statutes for tort actions, the City shall defend, save harmless and indemnify the city Manager against any tort, professional liability claim or demand or other legal action arising out of an alleged act or omission occurring in connection with the performance of the City Manager duties so long as the City Manager is acting within the scope of his employment. The city, or its insurance carrier, will defend all such claims and actions at its own cost through competent counsel through administrative, trial, and appellate proceedings pay or settle any such claim or suit or judgement rendered thereon. This Section shall survive cancellation or termination of this Agreement.

**Section 13. Notice**

Notices pursuant to this Agreement shall be given by certified mail, return receipt requested, through the United States Postal Services delivery, addressed as follows:

City                                Anthony F. DeFillipo  
   Mayor  
   City of North Miami Beach  
   17011 NE 19<sup>th</sup> Avenue  
   North Miami Beach, FL 33162

With copy to the                Hans Ottinot, Esq.  
   Interim City Attorney  
   City of North Miami Beach  
   17011 NE 19<sup>th</sup> Avenue  
   North Miami Beach, FL 33162

City Manager                    Arthur Sorey, III  
   City Manager  
   City of North Miami Beach  
   17011 NE 19<sup>th</sup> Avenue  
   North Miami Beach, Fl 33162

Any of the foregoing Parties may, by written notice to the other Parties, designate any other address to which subsequent notices, certificate or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand or facsimile transmission or three days after the date mailed. Any notice sent by electronic mail shall not be considered delivered unless the recipient has expressly confirmed receipt thereof.

**Section 14. 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 continuing 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 City 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 the construction, interpretation, and enforcement of this Agreement and venue for any litigation which may arise that in any way involves this Agreement shall be in Miami-Dade County in a court of competent jurisdiction.
- F. Upon City Manager's death, the City's obligations under this Agreement shall terminate except for:
  - 1. Transfer of ownership of retirement funds, if any, to his designated beneficiaries;
  - 2. Payment of accrued leave balances in accordance with this Agreement to his designated beneficiaries;
  - 3. Payment of all life insurance benefits in accordance with the City'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 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 approved by the City Commission and agreed upon by the parties. Any approved and agreed upon changes to this Agreement shall be reduced to writing with the same formality as this Agreement.
- J. The rights and obligations herein granted are personal in nature and cannot be assigned, delegated, or transferred by the City Manager.
- K. In any action or proceeding to enforce or interpret the provisions of this Agreement, each in such action or proceeding shall bear their own attorney's fees.
- L. Any calculation or computations required herein shall be made by the City Finance Director, subject to verification by the City Attorney. The Manager shall be promptly furnished a copy of such calculations and computations.
- M. On any matter which is not covered or addressed by this Agreement or the City Charter, the general City personnel policies, as amended from time to time, and as may apply, shall control, subject to confirmation by the City Attorney.
- N. This Agreement may be executed in duplicate or counterparts, each of which shall be deemed an original and all of which together shall be deemed one and the same instrument.

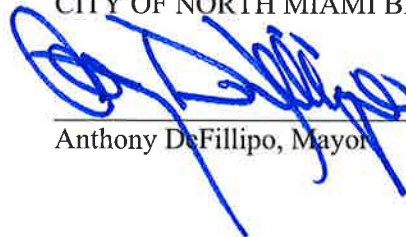
IN WITNESS WHEREOF, the Parties have caused this Agreement to be signed and executed, as of the date first written above.

CITY MANAGER



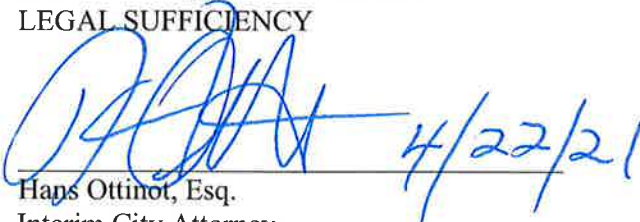
Arthur Sorey, III

CITY OF NORTH MIAMI BEACH



Anthony DeFillipo, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY



4/22/21

Hans Ottinot, Esq.  
Interim City Attorney