

**MUNICIPAL WATER DISTRICT OF ORANGE COUNTY
EMPLOYMENT AGREEMENT – GENERAL MANAGER**

This General Manager Employment Agreement (herein “Agreement”) is made and effective as of December 4, 2023 (“Effective Date”) by and between the Municipal Water District of Orange County (hereinafter the “District”) and Harvey De La Torre (hereinafter “Employee”). Collectively the “District” and the “Employee” are the “Parties.”

RECITALS

WHEREAS, the District conducted an extensive recruitment process for the position of General Manager and wishes to engage the services of Employee to serve as General Manager of the District; and

WHEREAS, Employee has served as the Interim General Manager since former General Manager Robert Hunter’s passing, and prior to that time has served as Assistant General Manager of the District since December 2020; and

WHEREAS, Employee represents and warrants that he has the skill and ability to serve in such position and wishes to accept such employment on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants herein contained, the parties hereto agree as follows:

1. EMPLOYMENT.

A. District hereby offers and the Employee hereby accepts the position of General Manager. Employee shall perform the duties and responsibilities of that position as specified in Section 1307 of the District’s Administrative Code and as otherwise imposed by law or industry standards, as well as such legally permissible further duties and functions as shall, from time to time, be assigned by the Board. More specifically, Employee shall direct the District’s activities in connection with the development, production, treatment, storage, transmission, and distribution of water, including but not limited to operations, maintenance, management, and engineering in accordance with the directions and policy established by the Board of Directors from time to time. He shall do and perform all other services and acts necessary or advisable to manage and conduct the business of the District and as directed by the Board of Directors.

B. Employee shall devote such time, interest, and effort to the performance of his duties as may be reasonably necessary to fulfill the above requirements. Employee agrees to perform such services to the best of his ability, in an efficient and competent manner consistent with the standards of the profession. Without limiting the generality of the foregoing, Employee understands and agrees that this position is an exempt, salaried, full-time position with regular hours Monday through Friday and weekend hours when required in the best interests of the District.

2. TERM AND RENEWAL.

A. This Agreement shall be effective as of December 4, 2023 (the “Effective Date”). The term of this Agreement shall be for five years (5) years, until December 4, 2028 (“Term”), unless sooner terminated or extended by the Parties as set forth in this Agreement.

B. In the event that the Board determines that Employee will not be re-employed at the expiration of this Agreement, he shall be given written notice by the Board at least six (6) months in advance of the expiration of the Term. If the Board fails to provide the required written notice, the Agreement shall be extended on the same terms for an additional one (1) year.

3. TERMINATION AND SEVERANCE.

A. It is expressly understood that Employee, in his capacity as General Manager, is a contracted employee serving “at will” and at the pleasure of the Board, subject to termination pursuant to the terms of this Agreement, and with no right to any hearing or appeal, including any “Skelly” conference, other than the rights expressly provided in this Agreement. To the extent any District rule, regulation of policy purports to provide rights to the Employee beyond what is articulated in this Agreement Employee expressly waives such rights.

B. This Agreement shall automatically terminate upon Employee’s death, retirement or permanent incapacity.

C. Employee serves at the will and pleasure of the Board. At any time during the Term of this Agreement or extension thereof, the Board reserves the right to terminate the employment of Employee and determine his last day of employment upon a majority vote of the Board (at least 4 Directors) at a duly noticed Board meeting.

In the event that this Agreement is terminated before the end of the Term “for cause” as defined below, no further compensation or benefit shall be made to the Employee. Termination “for cause” shall mean if the Employee does one or more of the following:

1. Acts in bad faith or gross misconduct to the detriment of the District or to the General Manager’s reputation;
2. Refusal or failure to act in accordance with any legal requirement or specific direction or order of the Board;
3. Unsatisfactory performance (as documented, in writing, with specificity, through an evaluation process. Any allegation of unsatisfactory performance shall include a written description of the alleged performance deficiency as well as an opportunity for the General Manager to correct such alleged deficiency within a reasonable time period, as determined by the Board, which time period shall not be less than three months unless the Board determines that there is an urgent need for correction, in which case a shorter time period shall be provided.), misconduct, dishonesty, habitual neglect, or incompetence;

4. Involvement in crime involving dishonesty, breach of trust, or public conduct reflecting negatively on the District (no pending criminal prosecution need be in effect for termination due to fraud, embezzlement or public conduct reflecting on the District; rather the Board must only have a good faith belief based on a good faith investigation);
5. Recklessly creates physical or emotional harm to any person; or
6. Breach of any material term of this Agreement, after thirty (30) days' notice and opportunity to cure.

Upon any allegation that Employee has engaged in conduct that would result in his termination "for cause" as defined, Employee is entitled to address and attempt to rebut those allegations before the Board in a closed session prior to the Board making any final determination regarding the veracity of those allegations. In the event the Board, in its discretion, still finds merit to the allegations and terminates, the Employee shall not be entitled to any further compensation.

D. In the event the District terminates Employee's employment for a reason other than "for cause," the Employee shall be entitled to the following severance in accordance with the terms of California Government Code sections 53260, et seq.: An amount equal to six (6) months of the Employee's then base monthly salary or an amount equal to his then base monthly salary multiplied by the number of months remaining on the unexpired term of this Agreement, whichever is less. The Employee shall be entitled to this severance pay either in a lump sum or, if he so elects, in a reasonable number of installments.

The provisions of California Government Code section 53243 through 53243.4, as those sections now or hereafter exist are hereby incorporated by reference into this Agreement. Thus, if Employee is convicted of a crime involving an abuse of office or position, whether before or after release from employment, Employee shall fully reimburse the District for any severance pay, paid leave, salary disbursed pending an investigation related to the crime, or legal defense funds relevant to the crime.

E. The Employee may terminate this Agreement upon written notice to the Board and one-month prior written notice unless the parties otherwise agree. The District shall have the option, in its complete discretion, to terminate the Employee any time prior to the end of such notice period, provided the District pays the Employee all compensation due and owing through the last day worked, plus an amount equal to the base salary the Employee would have earned through the remainder of the notice period. Thereafter, all the District's obligations under this Agreement shall cease.

4. COMPENSATION AND REIMBURSEMENT.

A. Salary. The District agrees to pay Employee for services rendered pursuant hereto at an annual amount equal to Three Hundred and Twenty Five Thousand Dollars (\$325,000) ("Compensation"). All Compensation due and owing shall be retroactive to December 4, 2023. The Employee may receive annual increases in salary as may be determined by the Board in its sole discretion. Any agreed salary increase must be expressly memorialized in

a subsequent written and executed Amendment to this Agreement. All compensation and comparable payments to be paid to Employee, except as set forth herein, shall be less withholdings and taxes required by law. Any adjustments must be made in light of Employee's performance.

B. Retirement Benefits. Employee shall receive CalPERS benefits in accordance with District plans and to the same extent as other District employees.

5. BENEFITS.

In addition to the compensation and reimbursement set forth in Section 4 the Employee shall be entitled to the following benefits:

A. Vacation. Employee shall accrue vacation in the same manner as all other District employees consistent with the District employment policies and procedures. Such vacation may be carried over, if not used, and may accumulate to a cap of Four Hundred (400) hours. Once the accrual cap is reached, the Employee will not accrue additional vacation hours until such time as he reduces his accrued hours below the cap.

B. Job-Related Expense Reimbursement. The District will pay the Employee's legitimate good faith business expenses incurred in connection with District business, as required under law or provided for other employees of the District and upon the same terms and conditions as those which apply to other employees of the District.

C. Dues and Subscriptions. The District shall budget and pay for Employee's professional dues and subscriptions necessary for his continued full participation in approved national, regional, state, and local associations and organizations necessary and desirable for continued professional growth and advancement and for the good of the District.

D. Professional Development. The District shall budget and pay for travel and subsistence expenses for Employee (as set out by applicable District practice, as it may be amended from time to time in the District's sole discretion) for Board approved professional and official travel, meetings, and similarly necessary functions, including, but not limited to, Board approved groups and committees of which Employee is a member, as well as short courses, institutes, and seminars necessary for the Employee's professional development and the good of the District. District shall also pay for any professional coaching that may be desired by the Board.

E. Bonding. The District shall bear the full cost of any fidelity or other bonds required under any law or ordinance in order to discharge the duties of Employee's position.

F. Automobile Allowance. The Employee agrees to use his personally-owned vehicle for local travel in the performance of his work-related duties. All expenses associated with such use shall be the Employee's responsibility. As consideration for use of his personal vehicle to perform work-related duties, the District shall provide the Employee with a Seven Hundred and Fifty Dollar (\$750) monthly automobile allowance.

G. Other Benefits. Except as otherwise provided herein, the District agrees to provide the Employee with the same fringe benefits, including but not limited to medical, dental, and vision care plans, and all other benefits which the District, in its discretion as may be revised from time to time during the continuance of this Agreement, provides for other employees of the District and upon the same terms and conditions as those which apply to other employees of the District.

6. OUTSIDE ACTIVITIES, CONDUCT, AND BEHAVIOR.

A. Employee shall comply with all local and state requirements regarding conflicts of interest and shall avoid personal involvement in situations which are inconsistent or incompatible with the position of General Manager or which give rise to the appearance of impropriety.

B. Employee covenants and agrees with Employer that Employee will not, during the initial or extended term of this Agreement and thereafter directly or indirectly use, communicate, disclose, or disseminate to anyone (except to the extent reasonably necessary for Employee to perform Employee's duties hereunder, except as required by law, or except if generally available to the public otherwise than through use, communication, disclosure, or dissemination by Employee) any Confidential Information (as hereinafter defined) concerning the business or affairs of Employer or of any of its affiliates or subsidiaries which Employee may have acquired in the course of or as incident to Employee's employment or prior dealings with Employer or with any of its affiliates or subsidiaries.

- i. "Confidential Information" shall mean (a) all knowledge, information, trade secret, process, procedure, and/or material concerning Employer or its business or the business of any of its affiliates or subsidiaries that shall become known to Employee as a consequence of Employee's relationship with Employer, (b) all information that has been disclosed to Employer by any third party under an agreement or circumstances requiring such information to be kept confidential, and (c) all knowledge, information, trade secret, process, procedure, and/or material concerning inventions that are owned by Employer or assigned to Employer; provided that the Confidential Information shall not include knowledge, information, process, procedure, and/or material that is or becomes generally known or available to others in businesses engaged in by Employer or to the public (other than through unauthorized disclosure). Confidential Information shall include without limitation (a) information of a technical nature, such as information regarding past, present, and future research, financial data, product information, marketing plans, computer programs (whether in source or object code form or other form and whether contained on program listings, magnetic tape, magnetic disks, CD ROMS or any other media), logic, flow charts, specifications, documentation and ideas relating to the activities of Employer, (b) information of a business nature, such as information regarding past, present, and future client development, strategies, procurement specifications, costs and financial data, contracts, quotations, and names of actual and prospective clients or customers, and (c) all documents, drawings, reports, client lists, and other physical embodiments of all such information.

C. The Employer may set such other terms and conditions of employment as it may determine from time to time, in its sole discretion, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or any federal, state, or local law. Employee shall also adhere to the District's Administrative Code and all of Employer's Rules, Regulations, and Policies so long as not in conflict with the terms of this Agreement. Failure to do so shall constitute a material breach of this Agreement.

7. GENERAL PROVISIONS.

A. Integration. This Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and this Agreement supersedes all negotiations and previous agreements between the parties with respect to all or any part of the subject matter hereof. This Agreement wholly supersedes and replaces the terms of any prior agreements, and any rights contained in such agreements.

B. Governing Law. This Agreement shall be governed by the laws of the State of California.

C. Waiver. A waiver of any term or condition of this Agreement shall not be construed as a general waiver by either party to this Agreement, and either party shall be free to reinstate any such term or condition, with or without notice to the other.

D. Amendment. This Agreement may be amended from time to time, as mutually agreed by the parties in writing. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the Employee and approved by the Board.

E. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the heirs at law and executors of Employee, but nothing herein shall be construed as an authorization or right of any party to assign his/its rights or obligations hereunder. Any assignment of the rights or obligations of Employee hereunder without the express written approval of District shall be void.

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

G. Legal Consultation. Employee acknowledges that he has had the opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his own judgment and not on any representations or promises other than those contained in this Agreement.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, the MUNICIPAL WATER DISTRICT OF ORANGE COUNTY has caused this Agreement to be signed and duly executed by its President, and the Employee has signed and executed this Agreement, both in duplicate, as of the day and year first above written.

DISTRICT:

MUNICIPAL WATER DISTRICT OF ORANGE COUNTY

DocuSigned by:
By: Megan Yoo Schneider 12/7/2023 | 7:45
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MEGAN YOO SCHNEIDER
President of the Board of Directors

EMPLOYEE:

HARVEY DE LA TORRE

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By: Harvey De La Torre 12/7/2023 | 2:45
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APPROVED AS TO FORM:

DocuSigned by:
By: Joseph Byrne 12/6/2023 | 2:09 PM PST
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General Counsel