

**INTERIM GENERAL MANAGER/ CHIEF ENGINEER EMPLOYMENT  
AGREEMENT  
BETWEEN  
MISSION SPRINGS WATER DISTRICT  
AND  
BRIAN MACY**

THIS EMPLOYMENT AGREEMENT ("Agreement") is entered into as of the \_\_\_ day of July, 2023, between the Mission Springs Water District, a county water district (the "District") and Brian Macy ("Employee"), who are collectively referred to as the "Parties". The above-named Parties hereby mutually agree as follows:

**I. TERM.**

District hereby employs Employee as the District's Interim General Manager/Chief Engineer (collectively referred to as "Interim General Manager") for a term of six months, commencing on August 8, 2023 ("Commencement Date"), and continuing through the end of business on February 8, 2024, or until District appoints a permanent General Manager, whichever occurs first, unless sooner terminated pursuant to Section VII of this Agreement ("Term"). The Parties may also extend this agreement for an additional period of time with the express and signed written consent of the District and Employee. Notwithstanding anything herein to the contrary, it is understood and agreed by the Parties that Employee holds the position as Interim General Manager at the pleasure of District's Board of Directors ("Board").

**II. SALARY.**

**A. Base Salary.** Employee's Salary shall be based on an annual salary level of \$238,992 per year during the period in which Employee serves as Interim General Manager, less payroll taxes and other legally required deductions. Employee's Base Salary will be paid pursuant to the same procedures established for management employees as they may be amended by District from time to time.

**III. DUTIES.**

Employee shall perform the duties of the District's Interim General Manager and Chief Engineer as prescribed by District's job descriptions and classifications for such positions. In addition, Employee shall have such powers and duties that are delegated to him by the California Water Code and the District's Board. Employee shall execute all powers and duties in accordance with District's policies, including policies hereafter adopted by the District's Board of Directors.

Employee shall be employed full time and shall maintain a normal business schedule and remain accessible. It is understood that Employee, as District's Interim General Manager, shall be available 24 hours a day and 7 days a week and is required to meet all the needs of the District regardless of District operating hours or any regular or normal work schedule. Employee's duties will likely involve work hours in excess of eight (8) hours per day and forty (40) hours per week, including but not limited to attendance at board meetings and outside meetings. Employee shall be exempt from overtime compensation. Employee shall do and perform all services, acts, or things necessary or advisable to manage and conduct the business of District, including the hiring, discipline and firing of all employees, subject at all times to the policies and resolutions established by the Board of Directors.

#### **IV. EMPLOYEE RESPONSIBILITIES.**

Employee shall be the interim chief executive officer of District. As such, Employee shall have the responsibility for implementing District policies, whereas the District's Board of Directors shall retain the responsibility for formulating and adopting said policy.

#### **V. EXCLUSIVE EMPLOYMENT.**

Employee shall devote his full time, energy and efforts to the position of Interim General Manager.

#### **VI. EVALUATION.**

Employee shall meet with District's Board in closed session periodically and as requested by the board to formally review Employee's performance and to discuss the Board's evaluation of said performance. The Board and Employee agree that by January 8, 2024, they shall meet to discuss whether there is mutual interest in extending this Agreement beyond the termination date.

#### **VII. TERMINATION.**

Employee shall serve as an "at will" employee at the will and pleasure of the District Board and may be removed from office (terminated) at any time for any reason, with or without cause from the Interim General Manager position and resume the role of Assistant General Manager, upon a majority vote of the District Board (at least three votes). Nothing in this Agreement shall prevent the District Board of Directors from terminating this Agreement and the services of Employee at its sole discretion. Employee understands and agrees that Employee may not avail himself of any procedures, provisions or protections set forth under any District employment policy in so far as such policy would limit, restrict, modify, prohibit or regulate Employee's status as an "at will" employee of District or the ability of the Board of Directors to terminate Employee's

employment at any time for cause or for convenience and without cause. Employee shall not be entitled to any pre-termination notice or hearing or other similar proceeding or appeal proceeding as a precondition to any decision or action by the Board of Directors to terminate Employee's employment whether for cause or for convenience and without cause. Nothing in this Agreement shall confer upon Employee any right to any property interest in continued employment with District.

**A. Severance Payment.** In the event Employee is terminated whether for cause or without cause or for no cause, Employee shall not be entitled to any severance payment.

**B. Termination for Cause.** Termination shall be for "cause" if Employee: (i) is convicted of a felony; (ii) is convicted of a misdemeanor arising out of his duties as a District employee or that in any way reflects negatively on the reputation of the District; (iii) has repeated and/or protracted unapproved absences; (iv) engages in the willful or insubordinate refusal to carry out a lawful directive of the District Board; (v) materially impedes or disrupts the performance of the District; (vi) engages in actions or omissions that are detrimental to employees or public safety; (vii) violates lawful District policy; (viii) acts in bad faith to the detriment of the District; (ix) continues in the poor performance of his duties despite the Board's efforts to correct deficiencies; (x) exhibits misconduct or dishonesty in regard to his employment; or (xi) habitually neglects Employee's duties.

**C. Resignation.** Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of Employee to resign at any time from his position with District. In the event Employee resigns, Employee shall not receive any Severance Pay.

**D. Expiration of Agreement.** Upon the expiration of this Agreement, Employee will return to the position of Assistant General Manager at a salary and benefit level equivalent to the salary and benefit level Employee currently receives from District as Assistant General Manager.

**E. Termination Upon Death or Permanent Disability.** Except as required by law, all benefits and any other rights of Employee shall be terminated by the death or permanent disability of Employee despite the amount of time remaining in the Term. For purposes of this Agreement, permanent disability is defined as Employee being incapable of performing his essential duties to District by reason of any medically determined physical or mental impairment that can be expected to last for a period of more than three consecutive months from the first date of Employee's absence due to disability. District will give Employee at least two weeks written notice of termination due to such disability.

## **VIII. FRINGE BENEFITS.**

**A. Time Off.** Employee shall be provided with paid time off as follows:

(i) **Vacation.** Employee shall accrue paid vacation at the same rate and in the same manner as he currently receives as Assistant General Manager.

(ii) **Sick Leave.** Employee shall accrue and be given sick leave on the same terms such leave is provided to him currently in his position as Assistant General Manager.

(iii) **Holidays.** Employee shall be entitled to the same paid holidays per calendar year, as other District employees in accordance with the annual holiday schedule of District.

**B. CalPERS and 457 Retirements.** District shall provide retirement benefits in compliance with California law and its contract with CalPERS on the same terms and conditions as full time regular employees of District.

**C. Health and Welfare Benefits.** In addition to his regular compensation, Employee shall receive the same medical, life, dental, vision, and other health and welfare benefits as are provided to, and on the same terms and conditions as, all full-time regular employees of District. During the Term of this Agreement, Employee shall continue to be provided with a term life insurance policy with the benefit at the same level as other District management level employees.

**D. Automobile Allowance.** In lieu of District vehicle, District will provide Employee with an automobile allowance of \$700/month as he currently receives as Assistant General Manager k. District shall have no obligation to reimburse Employee for mileage, repair, maintenance or vehicle replacement costs. Employee shall be responsible for providing all insurance for his vehicle and shall bear all costs associated with operating said vehicle.

## **IX. EXPENSES AND INDEMNIFICATION.**

**A. Expenses.** District shall pay or reimburse Employee for all normal and customary expenses for District business, travel, and meetings. When reimbursing for expenses incurred, District requires the submission of adequate proof of the expenses, such as a receipt, and some expenses may require prior approval of the District Board. The reimbursement of expenses shall be subject to District's expense reimbursement policy.

## **B. Professional Development.**

(i) District agrees to budget for and pay the travel and subsistence expenses of Employee for professional and official travel, meetings and occasions which the Board of Directors determines are appropriate to the continued professional development of Employee and to adequately pursue necessary official and other functions for District, including but not limited to national, regional, state and local government groups and committees thereof which Employee serves as a member.

(ii) District agrees to budget and to pay for the professional dues and subscriptions of Employee for his continuation and full participation in national, regional, state and local associations and organizations which the Board of Directors determines are necessary and desirable for his continued professional participation, growth and advancement, and for the good of District.

(iii) District agrees to budget and to pay for tuition, textbooks and institutional fees incurred in successfully completing job-related course work and seminars from an accredited educational institution. District will reimburse employees 100% for course-required tuition, texts and materials upon satisfactory completion of such courses in accordance with the District's Personnel Rules and Regulations.

(iv) To assist the Board of Directors with budgeting, the Employee shall provide, at the time of his annual evaluation, a list of those conferences, meetings, functions, and professional organizations, dues and subscriptions for which Employee requests District to advance costs for or reimburse Employee. All other requests for reimbursement of expenses pursuant to this Section shall be made by Employee in advance of any expenditure.

**C. Indemnification.** To the extent permitted by law, District shall indemnify Employee against all necessary expenditures and losses incurred by Employee in direct consequence of the lawful discharge of his duties, in accordance with Labor Code section 2802. In addition, to the extent permitted by law, District shall defend and indemnify Employee against any civil action, proceeding, or claim, in accordance with Government Code section 995, et seq.

## **X. GENERAL PROVISIONS.**

**A.** This Agreement supersedes any and all other agreements, either oral or written, between the parties hereto with respect to the employment of the Employee by the District and contains all of the covenants and agreements between the parties with respect to the employment of Employee by the District.

**B.** Employee agrees that he will abide with all applicable local, State and Federal laws, rules and regulations related to conflicts of interest and receipts of gifts.

**C.** Each party agrees and acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein and that any agreement, statement, or promise not contained in this Agreement shall not be valid or binding on either party.

**D.** Any modifications of this Agreement will be effective only if made in writing and signed by both Employee and the District.

**E.** If any provision, sentence or term of this Agreement is held by a Court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions, sentences and terms shall nevertheless continue in full force and effect without being impaired or invalidated in any way.

**F.** If Employee dies or becomes incapacitated during the Term of this Agreement, any accrued and unpaid wages provided by the terms of this Agreement shall be paid by District first to Employee's spouse and, if Employee has no spouse, then to Employee's children.

**G.** The parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed between the parties, and this Agreement reflects their mutual agreement regarding the subject matter of this Agreement. Because of the nature of such negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement, and, therefore, no presumption for or against validity or as to any interpretation thereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

**H.** Each party to this Agreement warrants to each other party that each party had the assistance of counsel in negotiation for, the preparation of, this Agreement, or could have had such assistance and voluntarily declined to obtain the same, and that each party has lawfully executed this Agreement.

**I.** This Agreement is entered into and to be performed in Riverside County and shall be governed by and construed in accordance with the laws of the State of California, with venue in Riverside County.

## **XI. STATUTORY OBLIGATIONS: ABUSE OF OFFICE OR POSITION.**

Notwithstanding anything in this Agreement to the contrary, pursuant to California Government Code Section 53243, 53243.1 and 53243.2, if Employee is convicted of a crime involving abuse of Employee's official position, all of

the following shall apply: (1) if Employee is provided with an administrative leave pay pending an investigation, Employee shall be required to fully reimburse such amounts paid by District; (2) if District pays for the criminal legal defense of Employee (which would be in the District Board's sole discretion, as District is generally not obligated to pay for a criminal defense), Employee shall be required to fully reimburse such amounts paid by District; (3) if this Agreement is terminated, any cash settlement related to the termination of Employee by District, shall be fully reimbursed to District or shall be void if not yet paid to Employee. For this section, abuse of office or position means either (1) an abuse of public authority, including waste, fraud, or violation of the law under color of authority; or (2) a crime against public justice, including a crime described in Title 7 commencing with Section 92 of the Penal Code.

IN WITNESS WHEREOF, the parties have executed this Agreement on the \_\_\_ day of July 2023.

MISSION SPRINGS WATER DISTRICT    EMPLOYEE

\_\_\_\_\_  
BY: Russ Martin, Board President

  
\_\_\_\_\_  
By: Brian Macy

\_\_\_\_\_  
**APPROVED AS TO FORM:**  
**John O. Pinkney, District Counsel**