

GENERAL MANAGER EMPLOYMENT AGREEMENT

THIS GENERAL MANAGER EMPLOYMENT AGREEMENT ("Agreement") is made and entered into effective as of the 1st day of January, 2018, by and between SAN ELIJO JOINT POWERS AUTHORITY, a public entity, ("SEJPA") and MICHAEL T. THORNTON ("Employee" or "General Manager").

RECITALS

WHEREAS, as SEJPA's General Manager, Employee has successfully guided SEJPA in its mission of providing high quality, cost-effective programs of wastewater treatment, ocean outfall management, and recycled water production and distribution; and

WHEREAS, SEJPA and Employee desire that Employee continue to do so; and

WHEREAS, SEJPA and Employee have reached agreement on the terms and conditions for his employment; and

WHEREAS, Employee commenced employment with SEJPA on October 9, 2000 as Assistant General Manager. He was promoted to the position of General Manager on December 12, 2002.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is hereby agreed as follows:

1. Duties:

a. Employee shall serve as General Manager of SEJPA on a full-time basis during the term of this Agreement, as that position is defined in the joint powers agreement establishing SEJPA, and as further described in Exhibit A, hereto, as amended by the SEJPA Board of Directors from time to time. In addition, Employee shall perform those duties which are customarily performed by General Managers of like organizations, and such other duties as the SEJPA Board of Directors may, from time to time, assign to him.

b. During the term of this Agreement, Employee may engage in work outside his regular work schedule at SEJPA, provided that said outside work is not prohibited by Government Code section 1126. Specifically, Employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his duties as a local agency officer or employee or with the duties, functions, or responsibilities of his appointing power or SEJPA. Further, the Employee shall not perform any work, service, or counsel for compensation outside of his local agency employment where any part of his efforts will be subject to approval by any other officer, employee, board or commission of SEJPA. Prior to undertaking or committing to undertake any such outside work, Employee must

inform the Board of Directors in writing of the nature of the outside work and obtain Board consent, which shall not be unreasonably withheld.

2. **Term of Employment:** This Agreement shall commence on January 1, 2018. Employee's employment with SEJPA shall be on an "at-will" basis, and may be terminated by either SEJPA or Employee at any time and for any reason, with or without cause or advance notice. The at-will nature of the employment relationship between SEJPA and Employee shall not be changed or modified except through a writing signed by the Chairperson of SEJPA's Board of Directors.

3. **Termination of Employment:** Should SEJPA terminate Employee, whether with or without cause, SEJPA shall, subject to Employee's signing and returning a full release in a form satisfactory to SEJPA, together with any SEJPA property, pay to Employee a lump sum amount equal to one-half of his annual base salary within 10 working days of the date such release becomes irrevocable by Employee. SEJPA shall, in addition, pay for the full cost of COBRA premiums for coverage for Employee and, if applicable, his spouse (so long as she remains married to Employee) and dependent children who were covered under the SEJPA group health plan on the date of Employee's termination, for a period of six months after the date of termination; provided, however, that SEJPA will only be obligated to pay such COBRA premiums if Employee properly elects and obtains COBRA coverage. The availability, duration and scope of such COBRA coverage will be solely as required by applicable federal law. SEJPA will cease to be obligated to pay Employee's COBRA premiums under this clause (and those for his spouse and dependent children, if applicable) when Employee secures other employment and becomes eligible for health coverage, even if he remains eligible for COBRA coverage. For the purposes of this paragraph, base salary means the base salary in effect at the time of Employee's termination from employment and does not include any incentive increment, vacation, sick leave, pension contributions, health benefits or any other employee benefit.

4. **Compensation:**

a. **Base Salary.** Employee will receive a base annual salary of \$205,920, commencing as of January 1, 2018, and \$214,157, commencing as of January 1, 2019, which may be adjusted by the SEJPA Board of Directors during future performance reviews.

Prior to June 30 of each fiscal year of this Agreement, SEJPA will review employee's performance, based upon goals and objectives agreed upon between Employee and the SEJPA Board of Directors, and give employee a written evaluation of his overall achievement of those goals and objectives and management of SEJPA. The Board of Directors will consider Employee's performance when determining whether Employee shall be granted any increases in his base compensation, or any other compensation.

The General Manager is eligible for an additional performance-based bonus of up to \$10,000, for the period of July 1, 2017 through June 30, 2018, and again for the period of July 1, 2018 through June 30, 2019, subject to the approval of the Board of Directors on or before June 30 of each year.

b. **Benefits.** Employee shall be entitled to participate in medical, dental, life and disability insurance plans, cafeteria plan, health care, dependent care reimbursement and deferred compensation plan on the same basis as employees subject to Resolution 2018-02 attached hereto, or any superseding Resolution, except as noted herein. A listing of Employee's

benefit and compensation package, including the generally available SEJPA employee benefit plans for which Employee is eligible, during the term of this Agreement, is attached hereto as Exhibit B. This Exhibit B may be updated periodically to reflect changes in Employee's compensation and benefits package from year to year.

c. Sick and Vacation Leave. It is the intent of the parties that Employee shall be entitled to at least the same level of sick and vacation leave as other full-time employees of SEJPA, based upon his years of service to SEJPA. Employee shall be entitled to six weeks of vacation leave annually (240 hours) and be entitled to sick leave as prescribed by Resolution 2018-02, or any superseding Resolution, provided that, notwithstanding the provisions of that resolution: (1) Employee may not take sick or vacation leave in increments of less than one half day; and (2) the calculation of conversion of sick and vacation leave to cash, if any, shall be based upon the Base Salary set forth above, and assume that Employee works a 2080 hour annual schedule. For purposes of this section a full day shall be considered to be 8 hours.

d. CalPERS Retirement Plan. Employee shall be entitled to participate in the California Public Employees Retirement System program based on section 21354.4, 2.5% at 55 full formula, as provided in Resolution 2018-02, or any superseding Resolution. The Board reserves the right to adjust the retirement component of the General Manager's contract for the period beginning January 1, 2018 through June 30, 2019.

e. Exceptions to Resolution 2018-02. To the extent permitted by law, the applicable benefit levels described in Resolution 2018-02 shall not be reduced for Employee during the term of this Agreement, notwithstanding the expiration of that resolution as of June 30, 2019.

f. Reimbursement of Expenses. Employee shall be reimbursed for all reasonable, actual necessary expenses incurred in the performance of his duties, in accordance with the adopted policies of SEJPA, except that Employee shall be entitled to an annual car allowance of \$7,200, to compensate and reimburse Employee for all costs of leasing, owning, operating, repairing and maintaining a vehicle available to the Employee for the conduct of his duties.

5. Withholding of Taxes: SEJPA will withhold from any monies payable pursuant to this Agreement all federal, state, city or other taxes as may be required by any law, governmental regulation or ruling.

6. Waiver of Breach: The waiver by either party, or the failure of either party to claim a breach of any provision of this Agreement, shall not operate or be construed as a waiver of any subsequent breach.

7. Assignment: The rights and obligations of the respective parties hereto under this Agreement shall inure to the benefit of and shall be binding upon the heirs, legal representatives, successors and assigns of the parties hereto; provided, however, that this Agreement shall not be assignable by either party without prior written consent of the other party.

8. Entire Agreement: This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements between the parties with respect to said subject matter in any manner whatsoever. Any modification of this Agreement will be effective

only if it is in writing and signed by both Employee and the Chairperson of SEJPA Board of Directors.

9. **Governing Law:** This Agreement shall be governed by, construed and enforced in accordance with the laws of the State of California.

10. **Partial Invalidity:** The invalidity of any part or parts of this Agreement shall not destroy the enforceability of the remainder of this Agreement unless such invalidity would defeat a material business purpose of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered the day and year first above written.

SAN ELIJO JOINT POWERS AUTHORITY

By: 

Tasha Boerner Horvath, CHAIRPERSON

EMPLOYEE



Michael T. Thornton, GENERAL MANAGER

This **Exhibit B** Listing the General Manager's Compensation and Benefits for January 1, 2018 – December 31, 2019 was approved on January 10, 2018, at a regular meeting of the San Elijo Joint Powers Authority Board of Directors, by the following vote:

AYES: Ginger Marshall, David Zito, Tasha Boerner Horvath, Joseph Mosca

NOES: none

ABSTAIN: none

ABSENT: none

This document has not been amended, modified, or rescinded since the date of its adoption.