

EMPLOYMENT AGREEMENT

This Employment Agreement (“Agreement”) is made and entered into by DANIEL R. FERONS (“Employee”) and the SANTA MARGARITA WATER DISTRICT, a California water agency (“District”).

1. Employment: Employee shall serve as the General Manager of the District, reporting to the Board of Directors (“Board”). Employee’s duties as General Manager are set forth on Exhibit “A” hereto. Said duties may be changed at the sole discretion of the Board. Further, at all times during his employment, Employee shall devote his full-time time, energies and loyalty to the District, perform all such duties and responsibilities as the Board may assign from time to time, and comply with all policies, procedures and directives of the District and the Board.

2. Term: The District hereby agrees and does employ Employee for a term of three (3) years commencing on January 1, 2015, and continuing through December 31, 2017, subject to the District’s right to terminate this Agreement and the employment of Employee at anytime during said Term, or any extension thereof, in accordance with the termination provisions set forth in Section 3 of this Agreement. This Term may be extended by mutual written agreement in an addendum to this Agreement. Unless otherwise provided for by a subsequent written agreement between the Parties, the terms and conditions of this Agreement shall apply to any extended Term of this Agreement.

3. Termination:

A. Nature of Employment. The parties hereby expressly agree that the employment relationship created by this Agreement is “at will” and that Employee serves at the will and pleasure of the Board. Except as provided hereinafter, nothing in this Agreement, any statute, ordinance, or rule shall prevent, limit or otherwise interfere with the right of the Board to terminate this Agreement and the employment of Employee Not For Cause or For Cause without right of appeal or grievance, at any time during the current Term or any extended Term. Accordingly, Employee agrees that this Agreement sets forth the only terms and conditions applicable to the termination of his employment and that he hereby waives any rights he would otherwise have thereunder.

B. By the Board Not For Cause. At any time during the current Term or any extended Term, the Board, in its sole discretion, may terminate this Agreement and the employment of Employee Not For Cause by providing Employee with written notice that his employment is being terminated Not For Cause. In the event the Board exercises its right under this provision, the District shall pay Employee all compensation due and owing through the last day actually worked, plus six (6) months of the Employee’s base salary as of the time of the termination, less applicable legal deductions, which shall constitute a severance payment; provided, however, in no event shall the severance payment that Employee may receive under this Agreement exceed an amount equal to the monthly base salary of Employee multiplied by the number of months left on the unexpired term of this Agreement as provided in California Government Code Section 53260. The payment of such severance benefit shall be conditioned upon Employee executing a general release agreement containing a general release of all claims

Employee may have against District, its Board members, officers and employees at the time of any such termination, in such form as may reasonably required by Employer's attorney. Said severance payment shall not be due and payable unless and until Employee executes such a general release agreement and until expiration of all waiver and rescission rights as provided by law at the time of such termination. Pursuant to Government Code Section 53243, et seq., which became effective on January 1, 2012, if Employee is convicted of a crime involving an abuse of office or position, any severance pay that Employee received from District shall be fully reimbursed to District. For this Section, abuse of office or position means either: (1) an abuse of public authority, including waste, fraud, and 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.

C. By the Board For Cause. At any time during the current Term or any extended Term, the Board may terminate this Agreement and the employment of Employee For Cause (as defined below). If Employee is terminated For Cause, the District shall pay Employee all compensation due and owing through the last day actually worked. Employee shall not be entitled to any severance pay upon termination For Cause. "Cause" shall be defined as willful unauthorized taking of District funds or property, failure to carry out the primary duties and responsibilities of his position for a period in excess of 30 days (but excluding time periods when Employee is disabled and unable to perform the essential functions of his position with or without reasonable accommodation for not more than ninety (90) days or on authorized leave), death, conviction of a felony, or gross misconduct. Prior to termination For Cause, Employee shall be provided a written notice detailing the Cause and an opportunity to rebut the charges in a closed session meeting with the Board.

D. Resignation. At any time, Employee may resign from his employment for any reason by providing the Board with one hundred twenty (120) days' advance written notice. The Board shall have the option, in its sole discretion, to make Employee's termination effective at any time prior to the end of such notice period, provided the Board pays Employee all compensation due and owing through the last day actually worked, plus an amount equal to the compensation Employee would have earned through the balance of the above notice period or the end of the term or extended term of this Agreement, whichever is sooner. Thereafter, all of the District's obligations under this Agreement shall cease. In the event Employee fails to provide the one hundred twenty (120) days written notice of his resignation, the Board may terminate this Agreement and Employee's employment at any time without any further obligations to Employee other than paying all compensation due and owing through the last day actually worked. Employee shall not be entitled to any severance pay upon resignation.

E. Benefits Upon Termination. All benefits to which Employee is entitled shall cease upon Employee's termination or resignation, unless explicitly continued either under this Agreement, under any specific written policy or benefit plan of the Board, or unless otherwise required by law.

4. Compensation: In consideration for Employee's services to be rendered under this Agreement Employee shall receive the following:

A. Salary. Effective January 1, 2015, Employee shall receive a base salary of Two Hundred Forty-Three Thousand Dollars (\$243,000), less applicable legal deductions, in consideration of the services provided by Employee as set forth in Exhibit "A" hereto. This salary may be adjusted annually by mutual written agreement in an addendum to this Agreement.

B. Performance Bonus. Employee shall be eligible annually in December for a performance bonus, , as determined by the Board of Directors based on an annual review of performance and accomplishment of mutually agreed goals. The Board of Directors and Employee will review progress quarterly March, June and December of each year.

C. Benefits. Employee shall receive medical, dental and vision insurance coverage under the District's current benefit plans, and such coverage shall be the same as that provided to other District managers. Employee shall also receive life insurance, a health retirement account, general leave and leave of absence benefits in accordance with District policy. Except, Employee shall accrue five (5) weeks of general leave (200 hours).

D. Deferred Compensation. The District shall make an annual \$17,500 contribution to a tax deferred compensation account for 2015, 2016 and 2017. All such contributions shall be subject to compliance with applicable law and maintaining tax-exempt status of the contributions.

E. PERS. Employee shall be entitled to participate in the Public Employee Retirement System, and Employee shall pay the required employee contribution to Cal PERS as required from other employees pursuant to Article XXIV, Retirement, Section 2 of the Memorandum of Understanding, Santa Margarita Water District and Santa Margarita Water District Employees Association, July 1, 2013-June 30, 2017 ("MOU").

F. Vehicle. Employee shall be provided either the use of a District vehicle, which shall be available to Employee for both business and personal use subject to federal rules on the taxation of such personal use as set forth in Exhibit "B", or a vehicle allowance of \$650/month, at Employee's option.

5. Expense Reimbursement: The District will reimburse Employee's reasonable expenses in carrying out his duties as General Manager.

A. Educational Reimbursement. Upon the prior approval of the Board, Annually, the Employee shall attend and educational degree programs, short courses, institutes, and/or seminars that are necessary for Employee's professional development and the good of the District. The District agrees to pay for related tuition, fees, and travel and subsistence expenses of the Employee.

6. Confidentiality: Employee acknowledges that he will be entrusted with confidential information about the business of the District, its personnel, and its customers. Employee shall not disclose or use any such confidential information except as necessary in the performance of Employee's duties under this Agreement or with the District's express written consent. Employee must maintain attorney/client and other legal privileges on behalf of the District unless said privilege is waived by formal action of the Board.

7. Conflict of Interest: Except as otherwise provided hereinafter, during the term of this Agreement, Employee shall not accept other employment or engage in any other outside business activity which interferes with the performance of Employee's duties and responsibilities under this Agreement or which involves actual or potential competition with the business of the District, except with the express written consent of the Board. Employee shall comply with all laws and District policies governing conflicts of interest, including those concerning the acceptance and reporting of gifts and business transactions. Employee shall adhere to the highest ethical standards and avoid even the appearance of impropriety in the conduct of District business, including his dealings with contractors, vendors and customers of the District, as well as in his private life to the extent his activities may reflect on the District.

8. Employee Benefit Plans: All of the employee benefit plans referred to or contemplated by this Agreement shall be governed solely by the terms of the underlying plan documents and by applicable law. Nothing in this Agreement shall impair the District's right to amend, modify, replace and terminate any and all such plans in its sole discretion as provided by law, or to terminate this Agreement in accordance with its terms. This Agreement is for the sole benefit of Employee and the District and is not intended to create an employee benefit plan or to modify the terms of existing plans.

9. Performance Evaluation: On or about June of each year, the Board shall conduct a performance evaluation of Employee. At the time of the performance evaluation, in June of each year, the Board shall establish goals for the Employee for the upcoming year. The Board's failure to establish goals or conduct a performance evaluation shall not modify their authority to terminate Employee's employment as set forth in Section 3. At the time of the evaluation, the Board will consider whether to provide Employee with an increase in salary and/or a bonus.

10. Assignment: This Agreement may not be assigned by Employee, but may be assigned by the District to any successor in interest to its business. This Agreement shall bind and inure to the benefit of the District's successors and assigns, as well as Employee's heirs, executors, administrators and legal representatives.

11. Notices: All notices required by this Agreement may be delivered personally or by first-class mail at the following addresses:

To the District: Board President
 Santa Margarita Water District
 P. O. Box 2279
 Mission Viejo, CA 92690

To Employee: Daniel R. Ferons
 42 Sandpiper
 Irvine, CA 92604

12. Amendment: This Agreement may be modified only by written agreement signed by the party against whom any amendment is to be enforced.

13. Choice of Law: This Agreement shall be governed by the laws of the State of California.

14. Partial Invalidity: In the event any provision of this Agreement is void or unenforceable, the remaining provisions shall continue in full force and effect.

15. Waiver: No waiver of any breach of this Agreement shall constitute a waiver of any subsequent breach.


16. Complete Agreement: This Agreement contains the entire agreement between the parties, and supersedes any and all prior and contemporaneous oral and written agreements, including Employee's previous employment contracts or offer letters, which shall have no further force and effect.

[Signatures Appear on Following Page]

IN WITNESS WHEREOF, the Santa Margarita Water District has caused this Agreement to be signed and executed on its behalf by the President of its Board of Directors, and duly attested by its Board Secretary, and Employee has signed and executed this Agreement to be effective on the day and year first written above.

SANTA MARGARITA WATER DISTRICT

Dated: 12/22/2014

By: 
Betty H. Olson, President
Board of Directors

EMPLOYEE

Dated: 12/22/2014

By: 
Daniel R. Feron

ATTEST:


Kelly Radvansky
Board Secretary

APPROVED AS TO FORM:



Scott C. Smith
General Counsel

EXHIBIT "A"

Job Description

GENERAL MANAGER

DEFINITION

This is the chief executive officer position responsible for carrying out the Board of Director's ("Board") policies, directing District operations, controlling District expenditures, and overseeing all programs and activities of the District including capital improvements and development of water resources.

CLASS CHARACTERISTICS

This single position reports directly to the Board of Directors. Scope of work is highly complex in nature with management responsibility over all units of the District. Incumbent works from general directives or broadly defined missions of the organization as a whole.

ESSENTIAL FUNCTIONS

The following is a non-exclusive list of essential functions.

Provides leadership and management including planning, goal setting, and evaluating District effectiveness.

Implements District policies and procedures as directed by the Board in accordance with statutory, regulatory and other legal requirements.

Carries out day-to-day operations of the District, including but not limited to personnel management, managing District projects and consultants.

Emphasizes community outreach and education on behalf of the District. Maintain a positive working relationship and create close partnerships with the local cities and special districts as well as the County of Orange, LAFCO, MWD and MWDOC.

Makes recommendations to the Board regarding policies, procedures and other matters concerning, coming before or directly or indirectly affecting the District.

Prepares, recommends for Board approval, and administers the District's annual budget including salaries, maintenance and capital projects; coordination of development activities; participates in the negotiations of contracts and administers the contracts once implemented.

Responsible for day to day management of legal counsel including coordination of legal review and administration concerning agreements, contracts, personnel matters; and legal opinions.

Responsible for review and preparation of claims, memoranda, papers, contracts, agreements, resolutions, ordinances, insurance claims and related procedures in coordination with legal counsel.

Ensures compliance with, and performs negotiations as appropriate regarding, permits and regulations, and other documents in coordination with other District staff and legal counsel as necessary or advisable.

Manages legal counsel, coordinates solicitation of legal advice to the Board and other District staff regarding general legal matters and requirements and changes in the law or regulations; assures compliance with all water quality laws and regulations.

Other duties include regularly coordinating with landowners and developers; coordinating and advising the Board and other staff concerning legislative bills and federal, state, county, city, Local Agency Formation Commission or other items that may or will affect the District. These duties may include participation in the Association of California Water Agencies and California Special Districts Association committees or activities concerning policy, engineering, finance and/or management matters, serving as the District's representative on joint powers authorities, including but not limited to the South Orange County Wastewater Authority and San Juan Basin Authority; and representing the District before or in participation with other local agencies on matters of mutual interest. Serves as the District's liaison with the general public and civic, regulatory or advocacy groups.

QUALIFICATIONS GUIDELINES

Education and/or Experience

Any combination of education and/or experience that has provided the knowledge, skills, and abilities necessary for acceptable job performance. Example combinations include equivalent to graduation from a four year college or university with major coursework in engineering, management, business or a closely related field, and/or registration as a professional engineer. A minimum of fifteen years of increasingly responsible and broad experience in water administration or management in a public agency, and a minimum of twenty-five years of professional level experience in development of water and wastewater resources.

Knowledge and Skill Levels

Thorough knowledge of public administration, including fiscal planning and control, policy and program development, development of water and wastewater resources. The ability to manage and prioritize a broad array of managerial, policy, capital, financial and practical issues typically under time constraints. Must possess significant knowledge of general management and supervisory principles and practices, and sound judgment and leadership skills. Also required are well developed persuasive verbal and written communication skills and the ability to work cooperatively with divergent groups.

Physical Requirements

Must meet the following requirements which are necessary to successfully perform the essential functions of this class: Travel by automobile to conduct District business; communicate in person, in writing, and/or by telephone with Board members, management, co-workers, and the public in face-to-face, one-to-one, and group settings; use office equipment such as computer terminals, copiers, and FAX machines; sit for extended periods of time; have hearing and vision within normal ranges; lift and carry 10 pounds; push and pull 10 pounds; sufficient manual dexterity to perform job functions.

Special Conditions of Employment

Must possess a valid California Driver's license, and must maintain a driving record acceptable to the District and its insurance carrier. Compliance with the foregoing requirements is a condition of initial and continued employment.

EXHIBIT “B”

EMPLOYER VEHICLE USED FOR BOTH BUSINESS AND PERSONAL USE

Employer Vehicle Used for Both Business and Personal Use

If an employer-provided vehicle is used for both business and personal purposes, substantiated business use is not taxable to the employee. Personal use is taxable to the employee as wages. The employer can opt to include all use as wages; however, the employee can pay the employer for personal use rather than having it treated as wages. Reg. § 1.61-21(c)

What is Personal Use?

The following are examples of taxable personal use of an employer-provided vehicle:

- *Commuting between residence and work station*
- *Vacation, weekend use*
- *Use by spouse or dependents*

For example, an employee goes into his office on the weekend. This is personal commuting, regardless of whether it is required by the employer. Reg. §1.162-2(e);

De Minimis Nontaxable Personal Use

An exception to the limitation on personal use of a district vehicle applies for use that qualifies as de minimis. Examples of de minimis use of a vehicle that can be excludable include:

- *Small personal detour while on business, such as driving to lunch while out of the office on business.*
- *Infrequent (not more than one day per month) commuting in employer vehicle. Not excludable reimbursements for commuting 12 days a year. The rule is available to cover infrequent, occasional situations. Reg. § 1.132-6(d)(3); Reg. § 1.132-6(e)(2)*