

EMPLOYMENT AGREEMENT GENERAL MANAGER

THIS EMPLOYMENT AGREEMENT (the "Agreement") is made and entered into, to be effective March 8, 2023 ("Effective Date"), by and between the MIDWAY DISTRICT SANITARY DISTRICT, a California municipal corporation organized and existing under the laws of the State of California (hereinafter referred to as "District"), and ROBERT HOUSLEY, an individual (hereinafter referred to as "Housley" or "General Manager"). District and Housley are sometimes hereinafter individually referred to as "party" and are hereinafter collectively referred to as the "parties."

RECITALS

A. In order to ensure that its governmental responsibilities are met at all times, the District must attract and retain in its employment executive management personnel who exhibit the highest degree of knowledge, experience, technical ability, professionalism, and leadership qualities.

B. In order to attract and retain in its employment a General Manager who possesses those qualities and the experience necessary to continue to fulfill the District's immediate and long-term goals and policy objectives, the Board of Directors ("Board") of the District has determined that it is advisable to retain and appoint Robert Housley as General Manager and to enter into this Employment Agreement. All District actions referred to in this Agreement shall mean actions taken by a majority of the Board of Directors.

C. In recognition of Housley's qualifications, performance history, and his dedication and loyalty to the District, as demonstrated by his leadership, knowledge, experience, technical abilities, and professionalism over the course of his career in public finance, human resources, and administration, including his exemplary service to the District for the past fifteen years, the District Board now wishes to retain Housley as General Manager.

D. District and Housley, therefore, desire to enter into this Agreement in order to specify the terms and conditions of Housley's employment with the District as General Manager.

THEREFORE, IT IS AGREED AS FOLLOWS:

Section 1: Appointment and Term

A. District hereby appoints and retains Housley to serve as General Manager of the District and Housley hereby accepts such employment with District beginning on March 8, 2023, and continuing for the Term set forth in Paragraph B or Housley or District terminate this Agreement pursuant to Section 7 below. The General Manager is employed by District in an "at-will" capacity serving at the pleasure of the District Board. Either the District Board or General Manager may terminate this Agreement at any time with or without cause and in its or his sole discretion, as set forth in this Agreement.

B. The Term of this Agreement shall be for three years, commencing on March 8, 2023, and ending at midnight on March 8, 2026, unless extended or terminated as provided for herein. District and General Manager may extend the Term of this Agreement by mutual written agreement, which shall be memorialized in an amendment to this Agreement. District and General Manager each agrees, if practicable, to provide the other with advance written notice of its or his intent not to renew this Agreement at least thirty days prior to expiration of the Term; provided, however that neither the non-renewal of this Agreement, nor the failure to provide notice of the intent not to renew this Agreement, shall constitute a breach of this Agreement or “termination” of the Agreement pursuant to Section 7 below.

Section 2: General Duties

Housley shall serve as the General Manager of the District. In that capacity, Housley shall perform all customary and legal functions and duties of the General Manager and administrative head of the District, and all services, acts, or things necessary or advisable to manage and conduct the business of District, as the District, by and through its duly elected Board of Directors, may legally and properly determine and assign to that position, including, but not limited to, the hiring and firing of all employees other than the District’s General Counsel.

Section 3: Devotion to District’s Business and Hours of Work

A. Housley’s position as General Manager is considered a full-time position. General Manager shall devote his time, ability, and attention to the business of the District during the term of this Agreement.

B. Except as otherwise provided herein, General Manager shall not engage in any other business, educational, or professional pursuits whatsoever, or directly or indirectly render any service of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise (excluding honoraria or the reimbursement of expenses), without the prior consent of the District Board. Housley may expend reasonable amounts of time for educational, charitable, personal, or professional activities which shall not be deemed a breach of this Agreement if those activities do not conflict or materially interfere with the professional services required under this Agreement; such limited activities shall not require the prior consent of the District Board.

C. Nothing in this Agreement prohibits General Manager from making passive personal investments or conducting private business affairs, if those activities are not deemed to be a conflict of interest under state law or conflict or materially interfere with the professional management services required under this Agreement.

D. General Manager’s duties may involve expenditures of time in excess of the regularly established workday or in excess of a forty-hour workweek and may also include time outside normal office hours, including but not limited to attendance at District Board meetings. General

Manager is classified as an exempt employee under the Fair Labor Standards Act (“FLSA”) and shall not be entitled to any additional compensation for hours worked in excess of forty in a work week or eight hours per calendar day.

Section 4: Performance Evaluation

The District Board shall review and evaluate the performance of General Manager at least once each year during the Term of this Agreement. All aspects of this annual review are private personnel matters within the meaning of the Brown Act and are to be conducted in Closed Session of the District Board. During the annual performance review process, the Board may establish, with or without input from General Manager, the goals, objectives, and performance standards for the position. Failure of District Board to review and evaluate the performance of General Manager pursuant to this section shall not affect the right of the District to terminate General Manager’s employment and shall not be considered a breach of this Agreement. Following each annual performance evaluation, the District Board may, at its sole discretion, grant General Manager a performance bonus equal to 0 – 10% of his then-current annual base salary, which, if awarded, may be approved by minute action of the Board and shall ratified by resolution.

Section 5: Salary

A. As compensation for the professional services to be performed hereunder, effective March 8, 2023, District agrees to pay General Manager an annual base salary of One Hundred Ninety Five Thousand dollars (\$195,000), subject to deductions and withholdings of any and all sums required for federal or state income tax, other deductions or withholdings required by then current state, federal or local law, and paid not less than bi-weekly in accordance with the District’s established accounting and payroll practices at the same time and in the same manner as other employees of the District are paid. The District shall also deduct from his annual base salary any applicable sums that General Manager is obligated to pay because of participation in plans or programs described in Section 6 of this Agreement and General Manager hereby authorizes such deductions.

B. Any increases in the annual base salary of General Manager, to the extent provided, may be made effective at any time and shall be made in the sole discretion of the District Board. Increases in General Manager’s annual base salary shall not require an amendment to this Agreement to be effective. Such increases may be set forth in an annual employee salary resolution or minute action approved by the District Board and ratified by resolution at a regularly scheduled meeting of the Board.

C. General Manager’s annual base salary shall not be subject to or affected by any Cost of Living or Consumer Price Index adjustments approved by the District Board to the salaries of other unrepresented employees.

Section 6: Benefits and Leaves of Absence

A. Employee Benefits. Except as expressly provided for in this Agreement, General Manager shall be entitled to receive the same benefits provided other unrepresented (non-union) District management employees. These benefits include, but are not limited to: health insurance (medical, dental, vision), health reimbursement arrangement, holidays, supplemental retirement contribution, group life insurance, sick leave, jury duty leave, and bereavement leave.

B. Vacation and Sick Leave. Except as otherwise set forth in this Agreement, General Manager shall be entitled to receive vacation time and sick leave each year in accordance with the vacation and sick leave accrual policies applicable to the District's unrepresented (non-union) employees, as such policies may be periodically amended by the District Board. Notwithstanding the foregoing, General Manager's vacation accrual rate may be reviewed and adjusted from time to time by the Board, at its sole discretion. Any changes to General Manager's vacation accrual rate may be set forth in a resolution applicable to all unrepresented employees or in a minute action approved by the District Board and ratified by resolution at a regularly scheduled meeting of the Board. General Manager shall retain any vacation and sick leave that he has accrued as Interim General Manager as of March 7, 2023, subject to any applicable accrual caps which may exist at the time of his appointment as General Manager. Any request by General Manager for vacation pay in lieu of time off shall be subject to and processed in accordance with the policy applicable to the District's unrepresented (non-union) employees, as such policy may be periodically amended by the District Board.

C. Retirement Benefits. General Manager shall be a member of the District's retirement plan as adopted and existing pursuant to the District's contract with the California Public Employment Retirement System ("PERS"). General Manager is a Tier I employee as defined in relevant District PERS resolutions and contracts and shall continue to be enrolled in the 3% at 60 program.

D. Use of District Vehicle. For the benefit of District, General Manager has been assigned a District vehicle. General Manager may use the vehicle for District business only, not for personal use. General Manager understands that the District may use the assigned District vehicle for District business at any time.

E. Professional Development. District acknowledges its interest in the continuing professional development of General Manager and agrees to pay all reasonable and appropriate expenses associated with professional dues and subscriptions and/or attendance at conferences, training opportunities, and meetings of organizations concerned with sanitation, solid waste, municipal finance, special districts, and/or the public administration profession. Such expenses must be approved in advance by the District Board during its budget process.

F. General Business Expenses. The District recognizes that General Manager may incur expenses of a non-personal, job-related nature that are reasonably necessary to General Manager's service to the District. The District agrees to either pay such expenses (supported by documentation) in advance or to reimburse the expenses, so long as the expenses are incurred and submitted according to the District's established expense reimbursement policies and procedures.

G. Administrative Leave Pending an Investigation. Because General Manager is an "at-will" employee, the District is not obligated to pay General Manager pending an investigation into any alleged misconduct by the General Manager. Notwithstanding the foregoing, in the event that the District Board of Directors determines, in its sole discretion, that it is in the best interest of the District for General Manager to be placed on paid administrative leave pending such an investigation, General Manager shall fully reimburse any salary provided for that purpose if the misconduct for which General Manager was under investigation results in General Manager being convicted of a crime involving an abuse of his office or position. General Manager shall fully reimburse such salary no later than six months after such conviction.

Section 7: Termination of Agreement

A. Termination by District Without Cause or For Reasons Other Than "Cause".

1. If District terminates this Agreement (thereby terminating General Manager's employment) without cause or for reasons other than "cause" as defined in Paragraph B below upon the vote of a majority of the total membership of the District Board in attendance at a lawfully called meeting, and only if General Manager timely executes and delivers to District an original "Separation Agreement and General Release" in the form attached hereto as Attachment 1, and does not thereafter timely exercise his right to revoke said Separation Agreement and General Release, District shall pay General Manager a lump sum severance benefit equal to the monthly salary of General Manager at the time of separation multiplied by the number of months left on the unexpired term of this Agreement, not to exceed six months of salary ("Separation Pay").

2. Such Separation Pay is considered a cash settlement related to the termination of General Manager and shall therefore be fully reimbursed to District by General Manager if General Manager is convicted of a crime involving an abuse of his office or position. Abuse of office or position shall have the meaning set forth in Government Code section 53243.4, as may be amended, and means either (1) an abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority or (2) a crime against public justice, including, but, not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code. General Manager shall fully reimburse such Separation Pay no later than six months after such conviction.

B. Termination by District For Cause. If the District terminates this Agreement (thereby terminating General Manager's employment) with cause, General Manager shall not be entitled to any Separation Pay. As used in this Agreement, "cause" shall mean any of the following:

1. Dishonesty; or
2. Conviction of a felony; or
3. Conviction of a misdemeanor arising out of General Manager's duties or performance under this Agreement; or
4. Misappropriation of public funds; or
5. Willful abandonment of duties consisting of the failure to report to work for five consecutive working days (for reasons not medically related) and not notifying staff and the District Board of his leave status; or
6. A willful and intentional failure to carry out materially significant and legally constituted policy decisions of the District Board; or
7. Any other intentional or negligent action or inaction by General Manager that:
(a) materially and substantially impedes or disrupts the operations of the District or its organizational units; (b) is detrimental to employees or public safety; (c) violates properly established rules or procedures of the District causing a material and substantial adverse impact on the District; or (d) has a material and substantial adverse effect on the District's interests as clearly defined and delineated by properly established District Board actions, policies, regulations, or District ordinances.

C. Termination by General Manager. General Manager may resign from his employment as General Manager and terminate this Agreement at any time. General Manager shall not be entitled to any Separation Pay if he resigns. General Manager agrees, if practicable, to give the District Board at least thirty days advance written notice of his decision to resign. District Board may choose to waive this thirty-day notice period and/or place General Manager on paid administrative leave through the effective date of the resignation. The District Board's waiver of this period shall not change the General Manager's resignation to a termination.

Section 8: Confidentiality

General Manager acknowledges that in the course of his employment contemplated herein, he will be given or will have access to confidential and proprietary documents and information relating to the District, its residents, businesses, employees, and customers ("Confidential Information"). Such Confidential Information may include, but is not limited to, all information given to or otherwise accessible to General Manager that is not public information or would be exempt from public disclosure as confidential, protected, exempt, or privileged information. General Manager shall hold the Confidential Information in trust for the District's benefit and shall not disclose the Confidential Information to others without the express written consent of the District.

All Confidential Information shall be promptly returned to the District immediately upon the effective date of any termination or resignation.

Section 9: Indemnification

A. Except for an act of misappropriation of public funds, or an indictment, the filing of an information, a plea of guilty or a plea of nolo contendere for a crime involving moral turpitude, District shall defend, hold harmless and indemnify General Manager against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring within the scope of his employment as General Manager, using legal counsel of the District's choosing in its sole discretion, in accordance with the provisions of California Government Code Section 825, applicable provisions of the Government Claims Act, and other applicable law. In the event there is a conflict of interest between the District and General Manager in such a case such that qualified independent counsel is required for General Manager, the District shall pay the reasonable fees of such qualified independent counsel, who shall be mutually chosen by the parties. District may compromise and settle any claim or suit against the General Manager and pay the amount of any settlement or judgment rendered therefrom.

B. In the event that the District provides funds for the legal criminal defense of the General Manager, General Manager shall fully reimburse said funds to the District if General Manager is convicted of a crime involving an abuse of his office or position as defined in Section 7(A)(2) of this Agreement. General Manager shall fully reimburse to District such criminal legal defense fees no later than six months after such conviction.

Section 10: Notices

Any notices to be given hereunder by either party to the other shall be in writing and may be transmitted by personal delivery, electronic mail, registered mail or certified mail. Notices delivered personally or by electronic mail shall be deemed communicated as of the date of delivery. Mailed notices shall be deemed communicated as of the date they are postmarked. Mailed notices shall be addressed to the General Manager at the address maintained in the personnel records of the District. Notices to the District shall be addressed as follows:

Midway City Sanitary District Board	With a Copy To:	James H. Eggart
Attn.: Board President		Woodruff, Spradlin & Smart
14451 Cedarwood Avenue		555 Anton Boulevard
Westminster, CA 92683		Suite 1200
		Costa Mesa, CA 92626

Section 11: Entire Agreement

This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the employment of Housley by District and contains all of the covenants and agreements between the parties with respect to that employment in any manner

whatsoever. Each party to this Agreement acknowledges that no representation, inducement, promise, or agreement, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein, and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party.

Section 12: Modification

Any modification of this Agreement shall be effective only if it is in writing and signed by the party to be charged.

Section 13: Effect of Waiver

The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

Section 14: Partial Invalidity

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in anyway.

Section 15: Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of California and all applicable District regulations, resolutions, and ordinances.

Section 16: Bonding

District shall bear the full cost of any fidelity or other bonds required of General Manager under any law or ordinance, or any insurance policies in lieu thereof.

Section 17: District's Policies and Procedures

The terms and conditions of General Manager's employment, including additional employment benefits of General Manager not specifically provided for in this Agreement, shall be governed by District's personnel policies and procedures, salary and benefits resolutions, and administrative regulations, to the extent not inconsistent with the provisions of this Agreement. In the event of any such inconsistency or conflict, the provisions of this Agreement shall govern.

Section 18: General Manager's Independent Review

Housley acknowledges that he has had the opportunity and has conducted an independent review of the financial and legal effects of this Agreement. Housley acknowledges that he has made an independent judgment upon the financial and legal effects of the Agreement and has not relied upon representation of the District, its elected or appointed officers and officials, agents or employees, other than those expressly set forth in this Agreement. Housley acknowledges that he has been advised to obtain, and has availed himself of (or waived his right to), independent legal counsel with respect to the terms, conditions and provisions of this Agreement.

Section 19: Enforcement

The prevailing party in any action brought to enforce this Agreement or to resolve any dispute or controversy arising under the terms and conditions hereof shall be entitled to payment of reasonable attorneys' fees and costs.

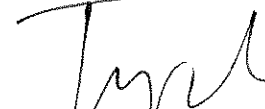
Section 20: Authority to Enter Agreement

The President of the District Board has the express authority to execute this Agreement.

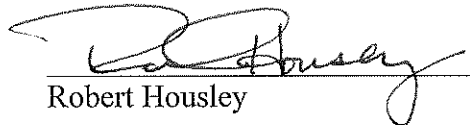
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date reflected above.

MIDWAY CITY SANITARY DISTRICT

GENERAL MANAGER

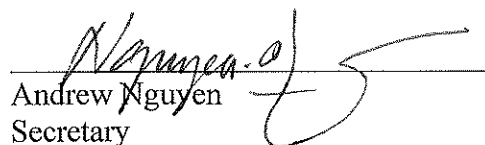


Tyler Diep
President



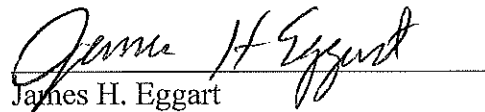
Robert Housley

ATTEST:



Andrew Nguyen
Secretary

APPROVED AS TO FORM:



James H. Eggart
General Counsel

ATTACHMENT 1

SEPARATION AGREEMENT AND GENERAL RELEASE

This Separation Agreement and General Release ("Separation Agreement") is entered into by Robert Housley ("General Manager") and the Midway City Sanitary District ("Employer"), in light of the following facts:

RECITALS

A. General Manager's employment by Employer, and the Employment Agreement under which he was employed, have been terminated effective _____, 20__.

B. General Manager is hereby informed that he has 21 days from the effective date of the termination when he received this Agreement to consider it. Employer hereby advises General Manager to consult with an attorney before signing this Agreement.

C. General Manager acknowledges that for a period of 7 days following the signing of this Separation Agreement ("Revocation Period"), he may revoke this Separation Agreement. This Separation Agreement shall not become effective or enforceable until the Revocation Period has expired.

D. General Manager acknowledges that the Salary Payment referenced in paragraph 1 of this Separation Agreement represents all compensation due and payable to him through his termination. General Manager also acknowledges that Employer has made this Salary Payment without regard to whether he signs this Separation Agreement. The Salary Payment does not constitute consideration for this Separation Agreement.

E. General Manager acknowledges that the Separation Pay referenced in paragraph 2 of this Separation Agreement is in excess of all amounts that are due and owing to him as a result of his employment by Employer.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **Receipt of Salary Payment.** General Manager hereby acknowledges receipt of a check for all salary and accrued leave owing ("Salary Payment") from Employer as of the effective date of this Separation Agreement (set forth in Recital A, above) pursuant to the Employment Agreement between General Manager and Employer.

2. **Separation Pay.** Following return to Employer of this Separation Agreement signed by General Manager and expiration of the Revocation Period, not having been revoked by General Manager, Employer shall pay the applicable Separation Pay provided for in the Employment Agreement between General Manager and Employer.

3. **General Release.** In consideration of the Separation Pay to be given to General Manager, and other good and valuable consideration, General Manager hereby releases and discharges Employer and its past and present elected and appointed officials and officers, employees, representatives, agents and attorneys, from all rights, claims, causes of action, and damages, both known and unknown, in law or in equity, concerning and/or arising out of his employment with Employer which he now has, or ever had, including but not limited to any rights, claims, causes of action, or damages arising under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Fair Labor Standards Act of 1938, the Americans with Disabilities Act, the Meyers-Milias Brown Act, the Vocational Rehabilitation Act of 1973, the Family and Medical Leave Act of 1993, the California Moore-Brown-Roberti Family Rights Act, the California Unruh Civil Rights Act, the California Fair Employment and Housing Act, or the California Labor Code, under any other federal, state, or local employment practice legislation, or under federal or state common law, including wrongful discharge, express or implied contract, breach of public policy, or violation of due process rights.

General Manager hereby waives and relinquishes all rights and benefits afforded by Section 1542 of the Civil Code of California. General Manager understands and acknowledges the significance and consequences of this specific waiver of Section 1542. Section 1542 of the Civil Code of California states as follows:

“A general release does not extend to claims which the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.”

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of Employer and its past and present elected and appointed officials and officers, employees, representatives, agents and attorneys, General Manager expressly acknowledges that this General Release is intended to include in its effect, without limitation, all claims which he does not know or suspect to exist in his favor.

General Manager further acknowledges that he has read this General Release, that he understands that this is a general release, and that he intends to be legally bound by the same.

4. **Fees and Costs.** General Manager and Employer agree that in the event of litigation relating to this Separation Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs.

5. **Complete Agreement.** Except for the applicable provisions of the parties' Employment Agreement, which are referenced herein, this is the entire agreement between General Manager and Employer with respect to the subject matter hereof and this Separation Agreement supersedes all prior and contemporaneous oral and written agreements and discussions. It may only be amended in writing.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the dates reflected below.

GENERAL MANAGER

DATED: _____

Robert Housley

MIDWAY CITY SANITARY DISTRICT

DATED: _____

By: _____
President

ATTEST:

Secretary

APPROVED AS TO FORM:

General Counsel