

**EMPLOYMENT AGREEMENT FOR THE
GENERAL MANAGER
OF THE
SAN MATEO COUNTY HARBOR DISTRICT**

THIS AGREEMENT is made and entered into as of, November 18, 2020 by and between the San Mateo County Harbor District (hereinafter referred to as the "District"), a public agency, and James B. Pruett (hereinafter referred to as "Manager").

RECITALS

WHEREAS, the District employed James B. Pruett as General Manager of the District for one year, pursuant to that certain Employment Agreement dated as of November 20, 2019 (the "Original Employment Agreement"); and

WHEREAS, the District desires to continue employment of James B. Pruett as the General Manager of the District; and

WHEREAS, James B. Pruett desires to continue to serve as the General Manager pursuant to the terms and conditions set forth in this Employment Agreement ("Agreement").

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the District, through its Board of Harbor Commissioners, hereby re-appoints James B. Pruett, to serve as General Manager, and Manager agrees to serve in this capacity beginning on December 11, 2020 under the following terms:

Section 1. Term

A. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the District to, at any time and in its sole discretion, terminate the services of Manager. There is no express or implied promise made to Manager for any form of continued employment. Notwithstanding any other provision in this Agreement or in the District Personnel Rules and Policies and Procedures, Manager serves on an at-will basis, and may be terminated at any time with or without cause. This Agreement is the sole and exclusive basis for an employment relationship between Manager and the District.

B. This Agreement shall become effective on December 11, 2020, and shall continue for a three-year term, unless this Agreement is terminated by either party as hereinafter provided. This agreement shall automatically renew on its anniversary date for additional three (3) year terms unless notice is given to the Manager by the District that the Agreement shall terminate is given at least six (6) months before the expiration date.

Section 2. Duties

A. The Manager shall perform the duties of the San Mateo County Harbor District General Manager with reasonable care, diligence, skill, and expertise as provided in the District's enabling statute (codified at Harbors and Navigation Code Section 6000, et seq., as may be amended from time to time), and as directed or authorized by the District's Board of Harbor Commissioners.

B. Manager will be responsible and have full authority for the management of the affairs of the District and the supervision and management of its employees, subject to the rules and polices of the District and the direction of the Board of Harbor Commissioners. Manager's responsibilities are further described in Exhibit A, but Manager may from time to time be required to exercise other responsibilities not listed in Exhibit A, as directed or authorized by the District's Board of Harbor Commissioners.

C. Manager is exempt from the overtime provisions of the Fair Labor Standards Act, and will determine a work schedule, provided that the work schedule shall devote such time, effort, ability and attention to the business of the District during the employment as may be required to perform faithfully and fully the duties of General Manager. Manager will not be employed by any other person or any other entity while employed as General Manager that would result in conflict of interest or prevent the Manager from performing the duties of the General Manager. Specifically, Manager shall not, either as an employee, employer, consultant, agent, principal, planner, stockholder, corporate officer, director, or any other individual or representative capacity, engage or participate in any business that is in competition with, or in conflict in any manner whatsoever with, the business, projects, or official positions of the District.

Section 3. Compensation and Evaluation

A. Salary. The District agrees to pay Manager an annual base salary of one-hundred-seventy-two thousand seven hundred and twenty dollars (\$172,720.00), payable in installments at the same time and in the same manner as other management employees of the District are paid, for the faithful and diligent performance of the duties and obligations of General Manager.

B. Annual Cost Of Living Increases: The Manager's base salary shall be increased annually on the anniversary date (December 11) by the percentage increase for the prior 12 months as of October for the Consumer Price Index as published by the U.S. Bureau of Labor Statistics for the CPI-W, All items, San Francisco-Oakland-Hayward metropolitan area..

C. Performance Evaluation. The Board of Harbor Commissioners will conduct a performance review and evaluate Manager's performance at least once annually at or near the anniversary of employment with the District.

D. Performance Incentives: Manager may be subject to performance incentives based upon such evaluation of Manager's performance of duties and obligations as the Board of Harbor Commissioners may, in its sole discretion, reasonably determine, predicated upon performance. It shall be Manager's responsibility to work with staff to place the Manager's reviews and consideration of performance incentive on a meeting agenda for Board consideration in a timely fashion.

Section 4. Holidays; Vacation; Leave

A. Holidays, Vacation and Leave. Manager will be entitled to paid holidays in accordance with the District's established holiday schedule. Notwithstanding the foregoing sentence, Manager shall not receive any additional compensation above that set forth in Section 3(A) as a result of paid holidays. Manager shall be permitted to be absent from work without loss of pay on such holidays. Manager will be entitled to bereavement leave, jury duty leave and other leave required by law in accordance with leave policies established from time to time by the Board of Harbor Commissioners for all of its managers, except as provided below.

B. Paid Time Off. Manager will receive annual Paid Time Off (PTO) as governed by District Policy and Procedure 6.5.1 modified as follows:

1. Manager will accrue PTO at the rate of 22 hours of PTO per month.
2. Unused PTO will carry over from year to year up to a total maximum of 540 hours.

C. Extended Illness Bank (EIB). The EIB is an individual account containing accrued hours designated for severe or long-term illness. The EIB may be used when Manager experiences a severe or long-term illness and one of these circumstances:

1. Is admitted to a hospital; or
2. Otherwise qualifies for State Disability benefits; or
3. Is eligible for Workers Compensation Benefits; or
4. When PTO, if available, has been used consecutively for the equivalent of one week's work and a physician's verification of illness is provided; or
5. Any other time when Manager requires time off for bona fide medical purposes of Manager or the General Manager's immediate family (spouse or registered domestic partner, child, or parent), and a physician's verification of illness is provided.

EIB is not to be used for regular or routine physician or dental appointments for Manager or the Manager's family. EIB accrual rates are equivalent to 3.077 hours

biweekly. There is no maximum number of EIB hours that may be accumulated. In no event may Manager cash out EIB hours at any time.

Section 5. Retirement, Health and Welfare, and Other Benefits

Except as otherwise modified by this Section 5, Manager will be entitled to participate in all benefit plans applicable to other management employees of the District including, but not limited to, a deferred compensation plan; health, dental, vision, workers compensation, flexible spending account, life/accidental death and dismemberment, and short-term disability insurance benefits; and retiree health insurance benefits, subject to the terms and conditions of any such manager benefit plan and any applicable District Personnel Rules and Policies and Procedures. To the extent future changes are made in the coverages provided or Manager contributions required, Manager will be subject to those changes.

A. Pension. Manager shall participate in the CalPERS retirement plan. Manager is defined as a new member under applicable CalPERS statutes and regulations and is subject to the retirement benefit formula of 2% at age 62 with 3-year final compensation. Manager shall pay the full employee share of the member contribution as determined by CalPERS through payroll withholding. The District shall not pay any portion of the Manager's member contribution.

B. Health and Welfare. The District will provide medical, dental, prescription, and vision coverage for Manager and the Manager's eligible family members, at a level of coverage substantially the same as the District provides other management employees. In its discretion, the District reserves the right to seek out and obtain alternative coverage in order to effect cost savings to the District. Manager agrees to pay 15% of the benefit premium cost for health insurance through payroll deductions. The District pays 100% of dental and vision premium obtained through the Special District Risk Management Authority.

At the Manager's sole discretion, the Manager may elect to decline the District provided medical coverage, provided Manager provides to the Board of Harbor Commissioners acceptable evidence of alternative health and medical coverage. If the District will effect a savings as a result of not having to pay premiums for said coverage, fifty percent (50%) of such savings shall be returned to the General Manager as a bonus payable concurrent with regular payroll in accordance with the procedures accorded other employees of the District. The Parties hereby acknowledge that this provision reflects current District policy, as well as the intent of the Parties under the Original Employment Agreement. For this reason, Manager shall receive such savings for the period of December 11, 2019 through December 10, 2020.

C. Group Life Insurance. The District will provide Manager a group term life insurance policy of \$200,000. The District will pay the premium for such coverage.

D. Deferred Compensation. Manager is eligible to participate in the District's Deferred Compensation Plan through CalPERS 457 plan, or such other plan as is

presently provided by the District on behalf of its employees. In addition to any contributions made by Manager, the District will make contributions to the Manager's deferred compensation plan in an amount equal to two percent (2%) of Manager's base salary. The Parties hereby acknowledge that this provision reflects current District policy, as well as the intent of the Parties under the Original Employment Agreement. For this reason, District made such contributions for the period of December 11, 2019 through December 10, 2020, and all such contributions are hereby ratified and confirmed.

E. Social Security. The District does not participate in Social Security. A pension based on earnings not covered by Social Security can affect the amount of your Social Security benefit. Further information is provided at <https://www.ssa.gov/Dlanners/retire/wep.html> under the Windfall Elimination Provision.

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Section 6. Other Obligations of the District

A. Office, Supplies, Business Expenses. The District agrees to provide Manager with an office, computer equipment, supplies and such other facilities and services commensurate with Manager's position in order to facilitate the Manager's performance of duties. Manager may request reimbursement for expenses incurred in the direct performance of the District's business, subject to prior approval by the Board of Harbor Commissioners. Such expenses may be reimbursed regularly as they are incurred, and submitted for reimbursement in compliance with the District Personnel Rules and Policies and Procedures.

B. Professional Development Activities. The District agrees to budget for and pay for the travel, meals, accommodations, registration and other expenses of Manager for conferences, seminars, and such other occasions as are reasonably necessary for Manager to fulfill the duties as General Manager, and to further Manager's professional growth and advancement. Such service and conferences include, but may not be limited to, those sponsored by the California Special District Association (CSDA) or California Association of Harbormasters and Port Captains. Such expenses must be appropriately documented and for professional development that requires travel, approved in advance by the Board of Harbor Commissioners in compliance with District Personnel Rules and Policies and Procedures.

C. Automobile. Manager will be entitled to an automobile allowance in the amount of Three Hundred Fifty Dollars (\$350) per month for use of the Manager's personal vehicle, for such meetings and other events as the District reasonably requires Manager to attend. Manager shall maintain collision and liability insurance on any vehicle used for any District business, at Manager's own expense, with coverage no less than \$100,000 per occurrence, \$300,000 aggregate. The automobile allowance is intended to cover the Manager's cost of operating and insuring the vehicle while used on District business. The Manager is responsible for all operating expenses of his privately owned vehicle including but not limited to, gasoline, oil, maintenance, wear and tear, depreciation and insurance. The District is not liable for any damage to Manager's privately owned vehicle, unless caused by the District's negligence (Manager's negligence excepted). Manager shall be responsible for any income tax or other taxes resulting from such an allowance. The vehicle allowance is in addition to, and not instead of, the District's obligations to reimburse Manager's travel expenses pursuant to Section 6.B.

District shall reimburse the Manager at the IRS standard mileage rate for the total mileage for any business use of the Manager's personal vehicle beyond the greater San Francisco Bay Area. For the purposes of this Section, use of the car within the greater San Francisco Bay Area is defined as travel to locations within a one hundred (100) miles radius of El Granada, California 98018.

D. Housing Allowance. The District will provide Manager with a housing allowance of \$1,250 per month for calendar year 2021, commencing with the first day of the calendar month following execution of this agreement. The housing allowance shall

be reduced by 50% for calendar year 2022, and again by 50% for calendar year 2023. Manager is responsible for any income tax or other taxes resulting from such allowance.

D. Indemnification: Beyond that required under Federal Statute or Local Law, District shall defend, save harmless and indemnify Manager against any obligation to pay money or perform or not perform action, including without limitations, any and all losses, damages, judgments, interests, settlements, penalties, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney fees, and any other liabilities arising from, related to, or connected with any tort, professional liability claim or demand or any other threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative or investigation, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Manager's duties as the General Manager or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willfully wrongful or wanton conduct. The Manager may request, and the District shall not unreasonably refuse to provide independent legal representation at District's expense and District may not unreasonably withhold approval. Legal representation, provided by District for Manager, shall extend until a final determination of the legal action including any appeals brought by either party. The District shall indemnify Manager against any and all losses, damages, judgements, interest, settlements, penalties, fines, court costs, and other reasonable costs and expenses of legal proceedings including attorney fees, and any other liabilities incurred by, imposed upon, or suffered by Manager in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of Manager's duties. Any settlement of any claim must be made with prior approval of the District in order for indemnification, as provided in this Section, to be available.

District agrees to pay Manager throughout the pendency of any litigation to which the Manager is a party, witness or advisor to the District, for all reasonable expenses directly related to the litigation. Such expense payments shall continue beyond Manager's service to the District as long as litigation is pending. Further, District agrees to pay Manager reasonable consulting fees and travel expenses when Manager serves as a witness, advisor, or consultant to District regarding pending litigation.

Section 7. Termination and Severance Pay

A. Termination With Cause. The District may terminate Manager at any time during the term of this Agreement for Cause. For purposes of this Agreement, "Cause" shall include the following: (a) intentional malfeasance demonstrated by a pattern of failure to perform job duties diligently and professionally; (b) the refusal to implement or follow the District's reasonable personnel rules, policies, procedures or directives; (c) the breach of a material provision of this Agreement; (d) committing a criminal act of fraud, dishonesty, misrepresentation, moral turpitude, or the misappropriation of property belonging to the District; (e) conviction of any criminal act; or (f) the commission of an act with the intent to cause a direct, substantial, and adverse effect on the District's business interests or reputation. In the event of termination for Cause,

Manager is not entitled to any severance payment. Manager will only be entitled to any unpaid compensation due as a matter of law.

B. Nothing in this Agreement prevents, limits, or otherwise interferes with Manager's right to resign at any time from the position of General Manager. Manager shall give 30 days' written notice to the District prior to the effective date of resignation unless a lesser period has been mutually agreed upon by both parties. In the event Manager resigns, the Manager shall not be entitled to any severance payment.

C. If this Agreement is terminated, any cash settlement related to the termination that Manager may receive from the District will be fully reimbursed to the District if Manager is convicted of a crime involving an abuse of office or position with the District. This Agreement shall be subject to the provisions of Government Code sections 53243-53243.4 which require reimbursement to the District under circumstances stated therein.

D. Termination Without Cause. In the event Manager is terminated without cause by the District during the term of this Agreement and during such time as Manager is willing and able to perform the duties of General Manager under this Agreement, the District shall provide Manager written notice of said termination, which effective date shall be at least sixty (60) days from the date of said notice. In the event of such termination, and provided that Manager executes a full and complete waiver and release of any and all claim(s) arising out of employment with the District and termination thereof, the District will pay Manager in a single lump sum cash payment of twelve (12) months of compensation based on Manager's then current annual base salary subject to the limitations imposed by Government Code 53260, which provides as follows: "regardless of the term of the contract, if the contract is terminated, the maximum cash settlement that an employee may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the contract. However, if the unexpired term of the contract is greater than 18 months, the maximum cash settlement shall be an amount equal to the monthly salary of the employee multiplied by 18. " Regardless of any entitlement to severance benefits, Manager will receive a cash payment of the unused balance of any PTO and any other payments required by law.

Section 8. Other Terms and Conditions of Employment

The Board of Harbor Commissioners will fix any other terms and conditions of employment, as it may determine from time to time, relating to the performance of Manager, provided such terms and conditions are not inconsistent with provisions of this Agreement or law.

Section 9. Mediation

Prior to the District and/or Manager seeking to arbitrate a dispute pursuant to Section 10, the parties may seek to resolve such a dispute through non-binding means, such as mediation. A party seeking to mediate a dispute must serve a written demand

for mediation upon the opposing party. The demand for mediation must provide that it is given pursuant to this Section of the Agreement, should briefly describe the nature of the claim(s) sought to be mediated, and request that the opposing party respond in writing within a reasonable time with the opposing party's willingness to participate in mediation. Such demand for mediation need not include the names of potential mediators, nor the proposed time and place of mediation. If the opposing party declines to participate in mediation, the aggrieved party may immediately seek to arbitrate the dispute pursuant to Section 10 of this Agreement. If the opposing party agrees to participate in mediation, the dispute will not be arbitrated until completion of the mediation, or reasonable and good faith efforts to schedule a mediation have proven unsuccessful. Any arbitration initiated without complying with this Section shall be subject to dismissal.

Section 10. Arbitration and Equitable Relief

A. Arbitration. The parties agree that any and all controversies, claims, or disputes with anyone arising out of, relating to, or resulting from Manager's employment relationship with the District or the termination of such relationship with the District, including any breach of this Agreement, shall be subject to binding arbitration under the arbitration provisions set forth in California Code of Civil Procedure sections 1280 through 1294.2 (the "Act") and pursuant to California law. The Federal Arbitration Act shall continue to apply with full force and effect notwithstanding the application of procedural rules set forth in the Act. Disputes which the parties agree to arbitrate, and thereby agree to waive any right to a trial by jury, include any statutory claims under local, state, or federal law. Manager further understands that this agreement to arbitrate also applies to any disputes that the District may have with Manager. Nothing herein changes the at-will nature of Manager's employment and that Manager may be terminated without cause. Nothing herein allows Manager to arbitrate or in any way challenge the District's decision to terminate the Agreement without cause.

B. Procedure. The parties agree that any arbitration will be administered by Judicial Arbitration & Mediation Services, Inc. ("JAMS") pursuant to its employment arbitration rules & procedures (the "JAMS rules"), which are available at <http://www.jamsadr.com/rules-employment-arbitration/> and from the Director of Administrative Services. The parties agree that the arbitrator shall have the power to decide any motions brought by any party to the arbitration, including motions for summary judgment and/or adjudication and motions to dismiss and demurrers, applying the standards set forth under the California Code of Civil Procedure. The parties agree that the arbitrator shall issue a written decision on the merits. The parties also agree that the arbitrator shall have the power to award any remedies available under applicable law. The District shall be responsible for paying all of JAMS' administrative and arbitrators fees. In all other respects, the parties shall bear their own attorneys' fees and costs except as otherwise required by law. The parties agree that the decree or award rendered by the arbitrator may be entered as a final and binding judgment in any court having jurisdiction thereof. The parties agree that the arbitrator shall administer and conduct any arbitration in accordance with California law. The parties further agree

that any arbitration under this Agreement shall be conducted in San Mateo County, California.

C. Remedy. Arbitration shall be the sole, exclusive, and final remedy for any dispute between Manager and the District. Accordingly, except as provided for by the Federal Arbitration Act and this Agreement, neither party will be permitted to pursue court action regarding claims that are subject to arbitration.

D. Availability of Injunctive Relief. In accordance with rule 1281.8 of the California Code of Civil Procedure, the parties agree that any party may also petition the court for injunctive relief where either party alleges or claims a violation regarding intellectual property, confidential information or noninterference. The parties shall bear their own attorneys' fees and costs.

E. Administrative Relief. The parties understand that this Agreement does not prohibit Manager from pursuing an administrative claim with a local, state or federal administrative body or government agency such as the Department of Fair Employment and Housing, the Equal Employment Opportunity Commission, or the Workers' Compensation Appeals Board.

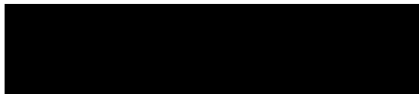
F. Voluntary Nature of Agreement. Manager acknowledges and agrees that executing this Agreement is voluntarily and without any duress or undue influence by the District or anyone else. Manager further acknowledges and agrees that this agreement has been carefully read and all questions have been asked and answered to understand the terms, consequences and binding effect of this Agreement. Finally, Manager agrees that Manager has been provided an opportunity to seek the advice of an attorney of the Manager's choice before signing this Agreement.

Section 11. General Provisions

A. Notices. Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by certified mail, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses indicated below or as changed by written notice delivered in accordance with this Section. Notices delivered personally shall be deemed communicated as of actual receipt. Mailed notices shall be deemed communicated as of three (3) calendar days after mailing.

To the District: 504 Avenue Alhambra, Suite 200
P.O. Box 1449
El Granada, CA 94018

To Manager: James B. Pruett



B. Entire Agreement. This Agreement contains all of the covenants and agreements between the parties with respect to the employment of Manager in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made which are not embodied herein and that no other agreement, statement or promise not contained in this Agreement shall be valid or binding. Any modification of this Agreement will be effective only if in writing signed by both parties.

C. Provisions Severable. If any provision or any portion hereof is held invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

D. Headings. The headings used in connection with this Agreement are for reference purposes only and shall not be construed as part of this Agreement.

E. Construction. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

F. Waiver of Breach. The waiver by the District of a breach of any provision of this Agreement by Manager shall not operate or be construed as a waiver of a subsequent breach by Manager.

G. Assignment. This Agreement is not assignable by either the District or Manager.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

By: _____

By: _____

EXHIBIT "A"

San Mateo County Harbor District General Manager

RESPONSIBILITIES

The General Manager is the Executive Officer of the District and for the Board of Commissioners.

The General Manager shall be responsible for the efficient administration of all of the District's affairs which are under the General Manager's control. The General Manager plans, organizes, directs, coordinates and evaluates all district operations, programs, and resources in accordance with short and long range goals, policy statements, and directives from the Board. The General Manager has exclusive management and control of the day-to-day operations of the District, subject to District Policy or approval by the Board of Commissioners.

The General Manager attends all meeting of the District's Board, unless otherwise requested, and such other meetings as the Board specifies.

The General Manager employs such employees as the General Manager deems necessary for the proper administration of the District and the proper operation of the works of the District in accordance with District Personnel Policy. Compensation of the General Manager and compensation ranges of such employees are subject to approval by the Board of Directors. The General Manager shall delegate authority at the Manager's discretion and has authority over all employees, including terminating for cause or lack of worthwhile work in accordance with District Personnel Regulations. The General Manager will provide a motivating work climate for District employees.

The General Manager shall maintain cordial relations with all persons entitled to the services of the District and attempt to resolve all public and employee complaints. The General Manager shall encourage citizen participation in the affairs of the District.

The General Manager shall carry into effect the expressed policies of the Board of Directors. The General Manager should plan the short, medium, and long-term work program for the District.

The General Manager shall prepare the District Budget. The General Manager shall manage the District budget.