

**AGREEMENT FOR EMPLOYMENT
OF
BUSINESS SERVICES MANAGER/ CFO
MONTEREY ONE WATER**

THIS AGREEMENT is made and entered into on January 22, 2018, by and between the MONTEREY ONE WATER, a California public agency, hereinafter referred to as "Agency," and **Fred Marsh**, hereinafter referred to as "Employee," as follows:

Recitals

1. Employee has the requisite skill, training and experience to properly perform the services specified herein.
2. The Agency now wishes to secure the services of Employee as Business Services Manager/ CFO and to establish and incorporate certain benefits, conditions of employment and working conditions of said Employee into a written contract.

In consideration of the mutual promises, conditions and covenants herein contained, the parties hereto hereby agree to the following:

Terms and Conditions

1. **Employment Duties.** Agency hereby agrees to employ said Employee as Business Services Manager/ CFO of the Agency to perform the usual administrative duties of that position, as described in the current job description attached as Exhibit "A" hereto, and such other legally permissible and proper duties and functions as the General Manager may from time to time assign. The Employee agrees that he will at all times faithfully, industriously, and to the best of his skill, ability, experience and talents, perform all of the duties required of his position, regardless of the amount of time involved. In carrying out these duties and responsibilities, the Employee shall comply with all Agency policies, procedures, rules and regulations, both written and oral, as are announced by the Agency from time to time. It is also understood and agreed to by the Employee that his assignment, duties and responsibilities and reporting arrangements may be changed by the Agency, in its sole discretion, without causing termination of this agreement. Employee shall not be employed by any other person or entity while employed in the position, except as permitted by the General Manager.

2. **Commencement of Services.** Employee will commence work on the services to be provided hereunder on January 22, 2018.

3. Term. This Agreement shall continue and remain in effect until terminated by either party in the manner hereinafter provided in paragraph 5 below. Nothing in this Agreement shall prevent, limit or otherwise interfere with a) Employee's at-will status, b) the right of the General Manager to terminate the service of Employee at any time, or c) the right of Employee to resign from his position at any time, subject only to the provisions set forth in paragraph 5 below and applicable provisions of law.

4. Compensation.

a) Agency agrees to pay Employee for his services rendered pursuant hereto an annual base salary of \$ 185,000.00, payable in installments at the same time as other employees of the Agency are paid.

b) The General Manager shall complete a written performance review of Employee at six months and then annually thereafter. At the time of said performance review, the General Manager shall determine whether an increase in base salary is warranted.

c) Employee shall be classified as exempt under the Fair Labor Standards Act, shall be a confidential employee for all purposes, and shall not be a member of any bargaining unit.

d) Agency will pay Employee's membership in professional associations and his travel, conference and meeting expenses, as approved by the General Manager.

e) Agency will provide the Business Services Manager/ CFO the following additional fringe benefits:

(i) Administrative Leave. Employee will accrue seven (7) working days of leave annually. All accrued leave will accumulate bi-weekly on a pro rata annual basis.

(ii) Vacation. Employee shall receive a lump sum of 40 hours of vacation leave upon date of hire and accrue vacation leave of one hundred-sixty (160) hours per year. All accrued leave will accumulate bi-weekly on a pro rata annual basis.

(iii) Management Benefits. Excepting salary increases and vacation days, Employee shall receive all benefits provided to other management employees of the Agency, including a monthly cell phone allowance of \$50.

(iv) Equipment. Employee shall be provided with such equipment as may be required to perform his duties remotely, in compliance with Agency policy.

(v) Relocation Allowance. Agency will reimburse Employee for his relocation expenses within 24 months from date of hire and upon completion of written confirmation and paid receipts up to \$8,000.

5. Termination, Resignation, and Severance Pay.

a) This agreement may be terminated by either party without cause upon thirty days' prior written notice.

b) In the event this agreement is terminated by the Agency without cause within one year from the date of commencement of services under this Agreement, Agency shall pay Employee a lump sum severance payment equal to two (2) months of Employee's salary, to the extent permitted by law. In the event this Agreement is terminated by Agency without cause after more than one year, Agency shall pay Employee a lump sum severance payment equal to one (1) month of Employee's salary. Employee concurs that this severance shall be the full and sole resolution of termination of employment by this Agency.

c) Employee agrees that in the event Employee's employment is terminated, under no circumstances will Employee be able to contest the nature of Employee's at-will employment status, nor will Employee be entitled to raise the remedy of reinstatement in any administrative or legal forum. Employee agrees that the sole issue for resolution upon termination of Employee's employment agreement will be the amount of severance pay and/or other payments which are due Employee. Employee shall have no other right of action against the Agency as it relates to termination and severance. Employee knowingly and voluntarily waives his right to pursue in state or federal court any such dispute or claim.

d) Pending the outcome of any dispute over the amount of severance pay, Agency may withhold any severance sums due Employee.

e) In the event Employee voluntarily and without the official request of the Agency resigns Employee's position, Employee shall give written notice to the Agency at least thirty days in advance of the final date of employment, unless the parties otherwise agree. In the event Employee resigns or is terminated for cause, the severance pay provisions of paragraph 5.b. shall not apply. For purposes of this Agreement, the following will justify termination for cause: willful breach of duty; habitual neglect of duty; gross insubordination; abuse of position or office; conviction of a crime involving moral turpitude; conduct that makes it impossible or impracticable to perform the duties under this Agreement, or that seriously impeded Agency operations; conduct that tends to bring discredit to the Agency, or conduct unbecoming an employee in public service; mishandling of Agency funds; any intentional misrepresentation or fraud in connection

with the performance of his duties; theft of Agency property; violation of law; or, violation of the Personnel Rules. If the Employee is convicted of a crime involving abuse of office or position related to his employment with the Agency, the Employee must reimburse the Agency for any of Employee's paid leave pending an investigation, legal criminal defense and any cash settlement related to termination.

6. Nondisclosure Requirements. Employee understands that during his tenure he shall be exposed to Confidential Information, which is defined as information or material that has or could have commercial value or other utility in the business, is related to Agency regulation or contracts, or which is deemed by the General Manager to be confidential. Employee shall hold and maintain the Confidential Information in strictest confidence. Employee shall carefully restrict access to Confidential Information to employees and contractors and shall not use the Confidential Information for Employee's own benefit, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of the Agency. The nondisclosure provisions of this Agreement shall survive the termination of this Agreement. Employee's obligations under this Agreement do not extend to information that is: (a) publicly known at the time of disclosure or subsequently becomes publicly known through no fault of the Employee; (b) learned by the Employee through legitimate means other than from the Agency; or, (c) is disclosed by the Employee with the Agency's prior written approval.

7. Other Terms and Conditions of Employment. Agency, in consultation with Employee, may from time to time fix any other terms and conditions of employment, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement or any law.

8. No Reduction of Benefits. Agency shall not at any time during the term of this Agreement reduce the salary, compensation or other financial benefits of Employee, except to the degree of such reduction for all management employees of the Agency.

9. Personnel Rules. Except as modified by this Agreement, Employee shall be subject to and comply with the Agency Personnel Policy. The current Personnel Policy is attached as Exhibit "B" hereto, however, it is expressly understood and agreed that said Personnel Policy is subject to change through the normal Agency review and approval process.

10. Attorney's Fees. In the event of any controversy, claim or dispute relating to this Agreement, or the breach thereof, the prevailing party shall be entitled to recover from the losing party reasonable expenses, attorney's fees and costs.

11. Modification. This Agreement is not subject to amendment or modification except in writing signed by the parties hereto.

12. Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the matters covered by this Agreement, and no other agreement, statement or promise made by or to any party or by or to any employee, officer or agent of any party, which is not contained in this Agreement, shall be binding or valid.

13. Employee's Examination of Agreement. Employee acknowledges that Employee has had the right to examine this Agreement, has been advised that Employee may wish to consult with an attorney prior to entering into this Agreement and has read and understands all of the provisions of this Agreement.

14. Severability. If any provision or any portion thereof contained in this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement or portion thereof, shall be deemed to be severable, shall not be affected, and shall remain in full force and effect.

15. Waiver. The waiver at any time by either party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to any subsequent default or matter.

16. Construction and Interpretation. The parties agree and acknowledge that this Agreement has been arrived at through negotiations and that each party has had a full and fair opportunity to revise the terms of this Agreement. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party will not apply in construing or interpreting this Agreement.

IN WITNESS WHEREOF, the Agency has caused this Agreement to be signed and executed on its behalf by the General Manager and the Employee has signed and executed this Agreement, the date first hereinabove set forth.

MONTEREY ONE WATER

By 
Paul A. Sciuto, General Manager

EMPLOYEE


Fred W. Marsh