

**EMPLOYMENT AGREEMENT**

**MANAGER OF SOUTH BAYSIDE SYSTEM AUTHORITY**

**THIS AGREEMENT**, made and entered into as of March 28, 2006 by and between the **SOUTH BAYSIDE SYSTEM AUTHORITY**, a California public entity ("Authority"), and **DANIEL T. CHILD** ("Manager");

**WITNESSETH:**

**WHEREAS**, Authority is a public entity established by Joint Exercise of Powers Agreement entered into by and among the Cities of Belmont, San Carlos and Redwood City and the West Bay Sanitary District (formerly, the Menlo Park Sanitary District), California, dated as of November 13, 1975 and thereafter amended (collectively, with amendments, "Joint Powers Agreement"); and

**WHEREAS**, the Commission of the Authority ("Commission") has, concurrently with approval of this Agreement, appointed Daniel T. Child as Manager of the Authority pursuant to Section 3.5 of the Joint Powers Agreement; and

**WHEREAS**, this Agreement sets forth the terms and conditions of Manager's employment by the Authority;

**NOW THEREFORE**, in consideration of the mutual covenants, agreements, and conditions contained herein, the parties hereto agree as follows:

**1. Manager's Duties and Responsibilities.** Manager shall perform the duties, carry out the responsibilities and have the rights and privileges, express and implied, of the Manager of the Authority pursuant to Section 3.5 of the Joint Powers Agreement and shall perform such other lawful duties and responsibilities consistent with said Section as may from time to time be assigned by the Commission.

**2. Employment Date.** Manager's employment shall commence 12:01A.M., P.S.T., April 3, 2006 ("Employment Date").

**3. Compensation.** Manager's compensation shall be established by resolution of the Commission in accordance with Section 12 of Resolution SBSA

No. 77-6, the "SBSA Personnel Resolution," as amended. Said compensation shall be established initially at the rate of \$195,000 per annum, subject to adjustments following performance reviews as hereinafter provided.

**4. Benefits.** Manager shall receive employment benefits including, without limitation, paid administrative leave, health, dental and life insurance and deferred compensation in accordance with the benefits provided to those officers and employees currently defined and when updated as "Management Employees" in the SBSA Personnel Resolution. Notwithstanding the foregoing, Manager shall be entitled to four (4) weeks vacation leave per year during the first through fifth years of employment and five (5) weeks vacation leave per year commencing with the sixth year of employment and the Authority shall pay 100% of Manager's member contribution to the California Public Employees' Retirement System ("PERS") along with the employer's contribution.

**5. Vehicle Allowance.** Manager shall receive a vehicle allowance in the standard amount provided Management Employees of the Authority which, upon the Employment Date, is \$300 per month; provided, that subject to availability, Manager may elect to use a vehicle owned by Authority for Authority business.

**6. Performance Reviews; Salary Adjustments.** The Commission shall review Manager's job performance upon expiration of the six (6) - month period next following the Employment Date ("Anniversary Date"). Thereafter, the Commission shall review Manager's job performance annually from and after the first Anniversary Date. The reviews shall be held upon or about the first and successive Anniversary Dates, respectively, and shall not unreasonably be delayed. Manager shall be entitled to participate in all such reviews. The reviews shall include consideration by the Commission of adjustments to Manager's salary, but the Commission shall not be obligated to approve an, or any, adjustment. Adjustments to compensation shall be made in open session of the Commission and by adoption of appropriate legislation in accordance with the SBSA Personnel Resolution.

**7. Status.** Manager shall serve at the pleasure of Authority's Commission, subject to the terms and conditions hereof, and shall not acquire a property

interest in employment or a right to continuing employment with Authority. Manager's employment with Authority is expressly limited by, and subject to the terms and conditions of, this Agreement and Manager shall not acquire nor accrue any employment rights or benefits not expressly provided or referenced herein.

**8. Termination.** Manager may terminate his employment and this Agreement without cause upon giving the Commission not less than thirty (30) days' prior written notice thereof. Authority may terminate Manager's employment and this Agreement without cause upon giving Manager written notice thereof, which notice shall specify the date that Manager shall vacate the Office of Manager and cease performing duties as such ("Vacancy Date"), which date shall not exceed thirty (30) days from the date of the notice; provided, that if no date is so specified, the Vacancy Date shall be the date of the notice. In the event of termination without cause, the effective date of termination ("Termination Date") shall be six (6) months from the Vacancy Date. From and after the Termination Date all rights and obligations of the parties hereto shall thereupon cease, except as to those which may have accrued or have been incurred prior to the Termination Date or expressly survive termination.

If Authority terminates Manager's employment without cause, Manager shall be compensated for severance pay in the form of paid administrative leave (or such other form as Counsel for the Authority shall approve that provides severance pay equivalent in value to that hereinafter specified) from and after the Vacancy Date to the Termination Date calculated at Manager's basic rate of pay in effect upon the Vacancy Date and payable over the immediately following six (6) - month period at the same time as other Management Employees are paid their salaries, less all mandatory payroll deductions.

In the event Manager's employment is terminated for cause, Manager shall receive no compensation beyond the date of termination or other compensation except as may be required by law for certain accrued benefits. The provisions of this Paragraph 8 shall not be deemed a limitation upon termination for cause or upon such other rights or remedies of the parties which

may accrue to them, respectively. "Cause" in the context of termination of employment means gross negligence, gross insubordination, conviction of a felony, conduct unbecoming employment with the Authority or professional misconduct that reflects adversely upon the Authority

**9. Outside Activities.** Manager's employment hereunder shall be Manager's sole and full-time employment. However, in light of the indirect benefits to Authority and the communities comprising Authority's service area through participation in activities not necessarily directly related to employment, Manager may elect to accept limited teaching, consulting or other business opportunities; provided, that such activities shall not interfere with Manager's responsibilities and obligations as Manager of the Authority and do not constitute a conflict of interest therewith. Manager shall keep the Commission informed of such activities.

**10. Relocation Expenses.** Authority shall reimburse Manager for expenses incurred in relocating from the State of Utah to Manager's initial residence in the San Francisco Bay Area, which expenses shall include the costs of packing, loading, shipping by ground transportation, unloading and unpacking the household furniture, movable furnishings, personal effects and other belongings of Manager and his immediate family, i.e., Manager, Manager's spouse and dependent children residing with Manager. The reimbursement shall be limited to the lowest of not less than three (3) written bid estimates obtained by Manager. Manager shall provide Authority with copies of said bids prior to engaging the lowest such bidder. Authority may object to the lowest bid and direct Manager to select a different bid or require Manager to seek additional bids; provided that Authority shall not unreasonably withhold approval of the lowest such bid or unreasonably require rebidding.

**11. Relocation Allowance.** In addition to the reimbursement provided under Paragraph 10, above, Manager shall be provided a relocation allowance in the lump sum of \$10,000. Said sum shall be payable upon execution of this Agreement by both parties.

**12. Housing Assistance.** (a) Payment. In recognition of the extraordinarily high housing costs unique to the San Francisco Bay Area, Authority shall provide Manager a one-time non-interest bearing lump-sum advance ("Advance") toward the "Purchase Price" (hereinafter defined) of a single family residence to be purchased by Manager (the "Residence," including all land, structures and appurtenances therein and thereon) in the amount of fifty percent (50%) of the Purchase Price, but not to exceed \$750,000. "Purchase Price" is defined as the agreed-upon gross purchase price between Manager and the seller of the Residence, excluding all loan fees, points, taxes, fees and other expenses necessary or appropriate to close escrow and to complete the purchase. Authority shall deposit the Advance into escrow for the purchase of the Residence with instructions consistent with the provisions of this Paragraph 12.

(b) Timely Purchase; Location; Use. Manager shall use his best efforts to make a good faith offer to purchase the Residence and open escrow for the purchase within six (6) months after the sale of Manager's Utah residence has closed; provided, that the Commission may approve extensions to said period by motion(s) duly made and carried upon a determination that Manager has employed all reasonable efforts to purchase the Residence within said period or prior extensions thereof. The Residence shall be located within a reasonable distance of Authority's service area that, under generally prevailing traffic conditions, allows for a maximum vehicular travel time of approximately one (1) hour from the Residence to Authority's Administrative Offices. Manager shall personally reside in the Residence as his principal residence and domicile and shall not lease, sublease, license, or otherwise permit tenancy in, or occupancy of, the Residence or any part thereof, for rent or other income-producing purposes.

(c) Purchase Money; Encumbrances. Manager shall use the entire "Net Proceeds" (hereinafter defined) from the sale of Manager's principal residence in Utah for the purchase of the Residence. "Net Proceeds" is defined as the agreed-upon sales price of the Utah residence less sales commissions, other costs of sale, escrow and transfer costs and payment of outstanding notes, loan

agreements or other indebtedness evidenced by mortgage, deed of trust or other encumbrance on the property. Title to the Residence shall be taken in the name of Manager or Manager and his spouse, as they shall determine; provided, that if Manager's spouse elects to join in title, she shall consent to, and be bound by, the terms and conditions of this Paragraph 12 and such other provisions of this Agreement as may pertain to the Advance and the Residence. Manager shall obtain a purchase money loan for the Residence and shall pay all principal, interest, fees, liens and assessments on, or pertaining to, the loan in a timely manner. Manager shall not mortgage, enter into a deed of trust, lien or otherwise encumber title to the Residence except for the purpose of concluding its initial purchase; provided, that Manager may, upon the Commission's prior written approval and subject to terms and conditions approved by the Commission, encumber title to the Residence for the purpose of funding repairs, reconstruction, replacement, refurbishment or remodeling necessary or appropriate to maintain the Residence in good, safe and habitable condition. Manager shall, at no expense to Authority, maintain and repair the Residence in substantially the same condition as that existing upon the date of purchase, reasonable wear and tear excepted.

(d) Insurance. Manager shall, at no expense to Authority, obtain, keep and maintain current a Homeowners Policy insuring the Residence for its full replacement value, with general liability coverage of not less than \$1 million combined single limit, which insurance shall provide that Authority, its Commission, officers, employees, agents and consultants shall be additional insureds. The insurance policy or an endorsement thereto shall provide that Authority shall be given not less than thirty (30) days' prior written notice of cancellation or reduction in coverage. Manager shall provide Authority with a copy of the insurance policy and all endorsements thereto.

(e) Sale; Distribution of Proceeds. If Manager ceases employment with the Authority for any reason including, without limitation, termination for, or without, cause, death, disability, retirement or resignation, or if Manager and his spouse separate and then or at any time after separation determine not to continue to

cohabit, or if Manager or his spouse commence proceedings to dissolve their marriage, or if Manager of his own accord determines to sell the Residence, Manager shall sell or cause the Residence to be sold and the proceeds of the sale shall be distributed as hereinafter provided. Manager shall give Authority written notice immediately upon the occurrence of his spousal separation, determination not to cohabit, or commencement of dissolution proceedings, retirement, resignation or determination of his own accord to sell the Residence.

Manager shall vacate and, to the extent within Manager's legal authority, cause all other residents thereof to vacate the Residence within (i) 180 days of the effective date of Manager's cessation of employment, (ii) 180 days after the date upon which proceedings to dissolve Manager's marriage are filed, (iii) 180 days after Manager and his spouse determine not to cohabit, or (iv) 180 days after determining of his own accord to sell the Residence. Notwithstanding the occurrence of any of the foregoing events and that Manager or Manager and his spouse may vacate the Residence, Manager shall continue to pay all loans evidenced by deed of trust, mortgage or other encumbrance on title to the Residence, insurance, taxes, assessments, liens and other payments pertaining to the Residence in a timely manner, shall continue to maintain and repair the Residence in substantially the same condition as existed upon the date of its purchase, reasonable wear and tear excepted, and shall continue to keep and maintain current the insurance described in Subparagraph (d) above until escrow for sale of the Residence closes. Upon close of escrow for the sale of the Residence pursuant to this Subparagraph (e), the proceeds of the sale shall, to the extent sufficient, be paid and distributed in the following order of priority: (i) costs of escrow and payment of any outstanding taxes, assessments or liens required by law to be given priority, (ii) payment of the purchase money note or other form of purchase money debt; (iii) payment of any lien or encumbrance to which Authority has consented shall be senior to Authority's Advance; (iv) repayment to Authority of the Advance plus one-half (1/2) of the gain on the sale of the Residence; provided, that if the Advance is less than one-half of the Purchase Price, the gain shall be divided in proportion to the respective

contributions of the parties to the Purchase Price; and (v) payment of the then remaining balance to Manager or as he shall direct. If the sale of the Residence results in a loss, the distribution to Authority under (iv) shall be equal to the Advance less one-half of the loss or that proportion thereof that the Advance bears to the Purchase Price if the contributions of the parties to the latter are not equal. It is the intent of the parties that the gain or loss on sale of the Residence shall be shared equally or otherwise in proportion to their respective contributions to the Purchase Price as limited by the above-described maximum contribution of Authority.

(f) Early Repayment. Notwithstanding the provisions of Subparagraph (e), above, Manager may at his option pay Authority the "Adjusted Value" of the Advance (hereinafter defined) at any time during his employment with Authority and thereby be relieved of compliance with the provisions of Subparagraphs (d) and (e), above. Manager shall exercise said option by giving Authority written notice thereof. Within thirty (30) days of receipt of the notice, Manager and an Ad Hoc Committee of Authority's Commission shall meet and confer to determine the fair market value of the residence as of the date of the notice, which value, upon agreement between Manager and the Committee, shall be confirmed or rejected by the Commission. If Manager and the Committee are not able to agree upon the fair market value within sixty (60) days from the date of their first meeting, or if the Commission shall reject the fair market value accepted by its Ad Hoc Committee, the fair market value shall be determined by a panel of appraisers selected as follows: Manager and Authority shall each appoint an appraiser and those appraisers shall select a third appraiser, all of whom shall be Members of the Appraisal Institute (M.A.I.). The members of the panel shall each appraise the Residence and the average of their three (3) appraisals shall be the fair market value of the Residence; provided, that any appraisal that varies more than ten percent (10%) from the median appraisal shall be discarded and the average of the remaining two (2) appraisals or the median appraisal, as appropriate, shall be the fair market value. Authority and Manager shall pay the



costs and fees of the appraisers appointed by them, respectively, and shall share equally the costs and fees of the third appraiser.

The Adjusted Value of the Advance shall be equal to one-half of the fair market value as determined above; or that proportion thereof that the Advance bears to the Purchase Price if the contributions of the parties to the latter are not equal. Upon receipt of the Adjusted Advance Authority shall execute in recordable form a reconveyance or quitclaim to Manager of its interest in the Residence created by this Agreement.

(g) Recordation. Authority shall cause a memorandum of Authority's interest in the Residence or a supplemental agreement (in form subject to the approval of Counsel for the Authority), signed by the parties, or this Agreement to be submitted to the Recorder of the County of San Mateo, California, for recordation in the Official Records of said County upon close of escrow.

(h) Provisions Survive. The provisions of this Paragraph 12 shall survive termination or other cessation of Manager's employment with Authority and termination of this Agreement.

(i) Successors. The provisions of this Paragraph 12 shall be binding upon and inure to the benefit of the successors, administrators, executors and assigns of the parties.

**13. Non-Assignability**. Manager shall not sub-contract, assign, sell, mortgage, hypothecate, or otherwise transfer Manager's interests, rights, duties or obligations hereunder in any manner, without the express prior written consent of Authority.

**14. Amendments; Supplements**. The provisions of this Agreement may be amended or supplemented by written agreement approved in the same manner as the initial Agreement.

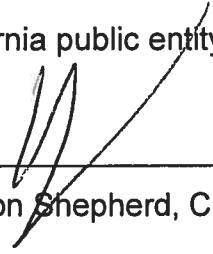
**15. Integration**. This Agreement contains the entire agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, written or oral, between the parties regarding said subject.

**16. Captions.** Captions and paragraph headings used in this Agreement are for convenience only, are not part of this Agreement and shall not be used in construing this Agreement.


**17. Governing Law.** This Agreement shall be construed in accordance with, and the performance of the parties governed by, the laws of the State of California.

**IN WITNESS WHEREOF,** the parties hereto have executed this agreement as of the day and year first hereinabove written.

**SOUTH BAYSIDE SYSTEM AUTHORITY, a**  
California public entity

By:   
\_\_\_\_\_  
Ron Shepherd, Chair

**Attest:**

By:   
\_\_\_\_\_  
Secretary

**MANAGER**

By:   
\_\_\_\_\_  
Daniel T. Child