



**SPMUD BOARD OF DIRECTORS
REGULAR MEETING: 4:30 PM
November 7, 2024**

SPMUD Boardroom
5807 Springview Drive, Rocklin, CA 95677

Zoom Meeting: 1 (669) 900-9128
Meeting ID: 882 7964 9201

The District's regular Board meeting is held on the first Thursday of every month. This notice and agenda are posted on the District's website (www.spmud.ca.gov) and the District's outdoor bulletin board at 5807 Springview Drive Rocklin, CA. Meeting facilities are accessible to persons with disabilities. Requests for other considerations should be made at (916) 786-8555.

The November 7, 2024 meeting of the SPMUD Board of Directors will be held in the District Board Room at 5807 Springview Drive in Rocklin, CA 95677 with the option for the public to join via teleconference using Zoom Meeting 1 (669) 900-9128, <https://us02web.zoom.us/j/88279649201>. Public comments can be made in person at the time of the meeting or emailed to ecostan@spmud.ca.gov from the time the agenda is posted until the matter is heard at the meeting. Comments should be kept to 250 words or less.

AGENDA

I. CALL MEETING TO ORDER

II. ROLL CALL OF DIRECTORS

Director Gerald Mitchell	Ward 1
Director William Dickinson	Ward 2
Vice President Christy Jewell	Ward 3
President James Durfee	Ward 4
Director James Williams	Ward 5

III. PLEDGE OF ALLEGIANCE

IV. PUBLIC COMMENTS

Items not on the Agenda may be presented to the Board at this time; however, the Board can take no action. Public comments can be made in person at the time of the meeting or emailed to ecostan@spmud.ca.gov from the time the agenda is posted until the matter is heard at the meeting. Comments should be kept to 250 words or less.

V. BOARD BUSINESS

Board action may occur on any identified agenda item. Any member of the public may directly address the Board on any identified agenda item of interest, either before or during the Board's consideration of that item.

1. **RESOLUTION 24-34 GENERAL MANAGER EMPLOYMENT AGREEMENT**

[pg 3 to 12]

Approval of the General Manager's Employment Agreement from December 1, 2024, through December 1, 2029.

Action requested: Roll Call Vote

Staff recommends that the Board of Directors adopt Resolution 24-34 authorizing:

1. **The Board President to sign the General Manager's employment agreement for a period of five (5) years commencing December 1, 2024, and**
2. **A Budget Amendment to allow the position of General Manager to be double-filled for a period not to exceed thirty-one (31) calendar days to allow for a brief overlap in time between the current and new General Manager.**

VI. ADJOURNMENT

If there is no other Board business the President will adjourn the meeting to the next regular meeting to be held on **December 5, 2024, at 4:30 p.m.**

**SOUTH PLACER MUNICIPAL UTILITY DISTRICT
STAFF REPORT**

To: Board of Directors
From: Herb Niederberger, General Manager
Cc: Emilie Costan, Administrative Services Manager
Subject: Resolution 24-34, General Manager Employment Agreement
Meeting Date: November 7, 2024

Overview

In accordance with Section 11926 of the California Municipal Utility District Act (MUD Act), the Board of Directors of the South Placer Municipal Utility District (District) shall appoint and fix the salary of the General Manager whose powers are described in Section 11937 of said MUD Act.

On January 12, 2023, the Board of Directors adopted Resolution 23-03 authorizing the General Manager to execute an agreement with CPS HR Consulting for Human Resources Services. The scope of services with CPS HR was expanded to include the recruitment for the District General Manager position.

CPS HR conducted a nationwide recruitment and with the aid of the District’s Personnel Advisory Committee narrowed the candidates to four finalists. On October 2, 2024, the Board of Directors interviewed the four finalists and allowed the District General Counsel, under direction from the District’s Personnel Advisory Committee to negotiate an employment agreement with the chosen candidate.

Recommendation

Staff recommends that the Board approve Resolution 24-34 authorizing:

1. The Board President to sign the General Manager’s employment agreement; and
2. A Budget Amendment to allow the position of General Manager to be double-filled for a period not to exceed thirty-one (31) calendar days to allow for a brief overlap in time between the current and new General Manager.

Strategic Plan Priority

Make SPMUD a great place to work

Related District Ordinances or Policies

Policy 4042: Board – General Manager Relationship and Responsibilities

Fiscal Impact

There will be a small additional salary expense from the thirty-one (31) day overlap of General Manager salary; however, the additional expense can be absorbed in the current budget and a budget adjustment is not needed.

Attachments:

1. Resolution 20-34
2. GM Employment Agreement

SOUTH PLACER MUNICIPAL UTILITY DISTRICT

RESOLUTION NO. 24-34

GENERAL MANAGER EMPLOYMENT AGREEMENT

WHEREAS, in accordance with Section 11926 of the California Municipal Utility District Act (MUD Act), the Board of Directors of the South Placer Municipal Utility District (District) shall appoint and fix the salary of the General Manager whose powers are described in Section 11937 of said MUD Act; and

WHEREAS, on January 12, 2023, the Board of Directors adopted Resolution 23-03 authorizing the General Manager to execute an agreement with CPS HR Consulting for Human Resources Services; and

WHEREAS, the scope of services with CPS HR was expanded to include the recruitment for the District General Manager position; and

WHEREAS, CPS HR conducted a nationwide recruitment and with the aid of the District's Personnel Advisory Committee narrowed the candidates down to four finalists; and

WHEREAS, on October 2, 2024, the Board of Directors interviewed the four finalists and allowed the District General Counsel, under direction from the District's Personnel Advisory Committee to negotiate an employment agreement.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the South Placer Municipal Utility District authorize:

1. The Board President to execute said General Manager's employment agreement for a period of five (5) years commencing December 1, 2024, and
2. A Budget Amendment to allow the position of General Manager to be double-filled for a period not to exceed thirty (30) calendar days to allow for a brief overlap in time between the current and new General Manager.

PASSED AND ADOPTED at a Regular Meeting of the South Placer Municipal Utility District Board of Directors at Rocklin, CA this 7th Day of November 2024.

Signed: _____

Jame Durfee, President of the Board of Directors

Attest: _____

Emilie Costan, Board Secretary

SOUTH PLACER MUNICIPAL UTILITY DISTRICT
Employment Agreement for General Manager

South Placer Municipal Utility District (hereinafter referred to as "District"), a municipal utility district formed and existing under the laws of the State of California pursuant to section 11501 *et seq.* of the Public Utilities Code, and Eric Nielsen (hereinafter referred to as "Employee" or "General Manager"), in consideration of the mutual promises made herein below, enter into this Employment Agreement for General Manager (the "Agreement") as follows:

Article I. Term of Employment

Section 1.1 District hereby employs Employee and Employee hereby accepts employment with District for a period commencing on December 1, 2024, and terminating on December 1, 2029. As used herein, the phrase "employment term" refers to the entire period of employment of Employee by District hereunder, whether for the periods provided above, or whether terminated earlier as hereinafter provided or extended by mutual Agreement between District and Employee.

Section 1.2 This Agreement may be extended by mutual consent of District and Employee for additional periods beyond the termination date of this Agreement provided, however, that any action by District to extend or modify this Agreement must be in writing and signed by District and Employee, and shall require the affirmative vote of not less than three members of the Board of Directors of District, in open session, and such action shall be reflected in the minutes of such meeting.

Section 1.3 The effective date of this Agreement shall be December 1, 2024.

Article II. Duties and Obligations of Employee

Section 2.1 Employee shall serve as General Manager of the District and shall perform such duties and responsibilities specified under chapters 3 and 4 of the Municipal Utility District Act (sections 11801 - 12167 of the Public Utilities Code), as well as such duties and responsibilities set forth in existing and future resolutions of the Board of Directors of District describing Employee's management authority and responsibility, and establishing practices and procedures regarding District personnel, and such other duties as may be required from time to time by the Board of Directors of District.

Section 2.2 Employee shall perform all services, acts or things necessary or advisable to manage and conduct the business of District. Employee shall devote his productive time, ability and attention to the business of District during the term of this Agreement. During the term of this Agreement, Employee shall not engage in any other businesses or pursuits, accept or perform work of a nature that conflicts or competes in any way with the business or services of District. Further, during the term of this Agreement, Employee shall not, whether directly or indirectly, render any services of a commercial or professional nature to any other person

or organization, whether for compensation or otherwise, without the prior written consent of District's Board of Directors. However, the expenditure of reasonable amounts of time for educational, charitable or professional activities shall not be deemed a breach of this Agreement if those activities do not materially interfere with the services required under this Agreement.

Section 2.3 The Employee shall be on a "9-80" work schedule as defined in section 2.5 of the District's Civil Service System Employee Manual. Unless on defined leave or out of the District Service Area, the Employee shall be expected to be available to respond to District needs at all reasonable times. Notwithstanding the foregoing, the Board of Directors reserves the right in its sole discretion to require Employee to work a standard work week schedule of five (5) eight (8) hour days. Nothing contained herein shall be construed to alter Employee's classification as an exempt employee.

Article III. Obligations of District

Section 3.1 District shall provide Employee with the compensation, benefits and expense reimbursements as set forth below in this Agreement. District shall also provide Employee with a private office, staff support, office equipment, supplies and other facilities and services suitable to Employee's position and adequate for the performance of his duties.

Section 3.2 District shall indemnify Employee for all loss sustained by Employee in direct consequence of the discharge of his duties on District's behalf to the fullest extent permitted under California law.

Section 3.3 District shall conduct a periodic performance evaluation of Employee, which shall be conducted in closed session and which will involve District's assessment of the achievement of tasks and goals set forth by Employee at the commencement of the term of this Agreement.

Article IV. Compensation of Employee

Section 4.1 Annual Salary. As compensation for the services to be performed hereunder, Employee shall be placed at Salary Schedule Range 75, Step A, with an annual salary of \$196,892.80. On July 1 of each following year during the term of this Agreement, there will be a salary adjustment consistent with the adjustments negotiated by the South Placer Municipal Utility District Management Group. In addition, subject to the annual assessment of the Employee's performance by the Board of Directors, Employee shall be eligible for an annual merit increase on December 1 of each contract year, consistent with the adopted salary schedule.

Section 4.2 Retirement Plan. Employee shall be entitled to participate in PERS at the Tier III rate of 2% at 62% (PEPRA). Subject to the annual assessment of the Employee's performance and achievement of set goals and objectives, the District may, in the sole discretion of the Board of Directors, contribute up to 5% of the Employee's annual salary into an IRS 401 a) Defined Contribution supplemental retirement plan.

Section 4.3 Deferred Compensation (457 Plan). District will match Employee's contribution to the District's deferred compensation plan up to \$250 per pay period.

Section 4.4 Car and Cell Phone Allowance. District shall provide Employee a car/transportation allowance of up to \$150 per pay period. In lieu of a District furnished cell phone, the Employee may furnish an Employee owned cell phone for District use. The District shall reimburse the Employee \$30.00 per pay period towards the cost of the Employee provided cell phone. Unless on defined leave or out of the District Service Area, Employee shall be available by cell phone to respond to District needs. Employee understands that by using his own cell phone for District purposes, he may be required to disclose data (such as text messages or emails) pursuant to a Public Records Act request or judicial process, which may include the disclosure of information, communications or data of a personal nature.

Section 4.5 Benefits. Employee shall be entitled to medical and dental insurance as provided to all management employees subject to the terms and conditions of the District's Civil Service System Employee Manual.

Section 4.6 Vacation, Holidays and Sick Leave. Employee shall be entitled to accrue two hundred hours of paid vacation each calendar year. The rate of accrual and total maximum accrual of vacation and sick leave, District paid holidays and eligibility for cash out, shall be calculated at the accrual rate for Management Employees, in accordance with the terms and conditions of the District's Civil Service System Employee Manual. Employee shall be eligible for all District paid holidays as provided in the District's Civil Service System Employee Manual.

Section 4.7 Reimbursement. In accordance with adopted District policies, the District shall promptly reimburse Employee for all reasonable expenses incurred by Employee in connection with the business of the District. Each such expenditure shall be reimbursable only if Employee furnishes to District adequate records and documentary evidence to substantiate the expenditure.

Section 4.8 Professional Education and Training. Subject to the approval of the Board of Directors, District shall budget and pay for the professional education, conferences, training, dues and subscriptions that are deemed necessary for Employee's professional growth and advancement or are in the best interests of the District. The Board of Directors will be notified in advance of any travel or training that requires overnight lodging. Expenses related to travel requiring overnight stays shall be reimbursed in accordance with adopted District policies. Out-of-state overnight travel and lodging shall require the advance approval of the Board of Directors.

Section 4.9 Life Insurance. The District shall furnish a \$250,000 term life insurance policy for Employee, subject to the approval of the Board of Directors regarding the cost and issuing insurance company.

Article V. Termination of Employment

Section 5.1 Employee shall serve at the pleasure of the Board of Directors of District. District shall have the right to terminate the employment of Employee with or without cause. If District terminates without cause, it shall provide Employee at least ninety days' notice thereof. If District terminates Employee's employment for "cause" (as defined below), it may do so immediately without notice. Any decision by District to terminate Employee's employment prior to the expiration of the term of this Agreement shall require the affirmative vote of not less than three members of the Board of Directors of District.

Section 5.2 Termination for Cause. District reserves the right to terminate this Agreement if Employee willfully breaches or habitually neglects the duties which he is required to perform under the terms of this Agreement; or commits such acts of dishonesty, fraud, misrepresentation, or other acts of moral turpitude as would prevent the effective performance of his duties. As used herein, the term "cause" shall involve any conduct or activity in which Employee:

- (a) Misappropriates any funds or property of District.
- (b) Attempts to obtain any personal profit from any transaction in which Employee has an interest which is adverse to the interests of District. The Board of Directors of District may waive this subparagraph (b) on a case- by- case basis, provided, however, that such waiver shall require the written authorization of the Board following a vote in open session.
- (c) Acts in bad faith and to the detriment of the District,
- (d) Refuses or fails to act in accordance with any legal requirement or specific direction or order of a majority of the Board of Directors, provided such direction is lawful.
- (e) Exhibits in regard to his employment unfitness or unavailability for service, unsatisfactory performance, misconduct, dishonesty, habitual neglect, or incompetence.
- (f) Is involved in crime involving dishonesty, breach of trust, or public conduct reflecting negatively on the District (no pending criminal prosecution need be in effect for termination due to fraud, embezzlement or public conduct reflecting negatively on the District; rather the Board of Directors must only have a good faith belief based upon a good faith investigation);
- (g) Recklessly creates physical or emotional harm to any person; or
- (h) Breaches any material term or provision of this Agreement.

Section 5.3 In the event District terminates this Agreement for cause as set forth in this section, District shall, if demanded by Employee, give a written statement of the reasons alleged for his removal without prejudice to any other remedy to which District may be entitled either at law, in equity, or under this Agreement. This provision is subject to Public Utilities Code Section 11929.

Section 5.4 In the event District terminates Employee for cause as set forth herein, District's obligation under this Agreement to make any further payments to Employee shall cease and terminate on the effective date of Employee's termination.

Section 5.5 Termination Without Cause. In the event District elects to terminate the employment of Employee without cause as defined herein, in accordance with Government Code Sections 53260 et seq., Employee shall be entitled to severance in an amount equal to six (6) months of Employee's then base monthly salary or an amount equal to his then base monthly salary multiplied by the number of months remaining on the unexpired term of this Agreement, whichever is less. Employee shall be entitled to his severance pay either in a lump sum or, if he elects, in a reasonable number of installments.

Section 5.6 Termination by Employee. In the event Employee elects to terminate this Agreement prior to the expiration of its term, Employee shall continue to be paid his salary and benefits through the last day of employment. Employee shall provide District a minimum thirty (30) days' written notice prior to his expected date of termination.

Section 5.7 Exercise of Rights By District. All rights of District under this Agreement shall be vested in the Board of Directors of District and shall only be exercised by a vote of a majority (but not less than 3) of the entire Board.

Article VI. General Provisions

Section 6.1 Entire Agreement. This Agreement supersedes and replaces any and all other Agreements, either oral or in writing, between the parties hereto with respect to the employment of Employee by District, including the original Agreement between Employee and District and all amendments thereto, and contains all of the covenants and Agreements between the parties with respect to that employment and in any manner whatsoever. Each party to this Agreement acknowledges that no representations, inducements, promises or Agreements, orally or otherwise, have been made by any party or anyone acting on behalf of any party which are not embodied herein, and that no other Agreement, statement or promise or understanding not contained in this Agreement shall be valid or binding on either party. Unless specifically addressed by this Agreement, the Employee shall be bound by the terms and conditions of the District's Civil Service System Employee Manual. In the event of any conflict between the terms of this Agreement and the District's Civil Service System Employee Manual, this Agreement shall prevail.

Section 6.2 Modification. Any modification of this Agreement will be effective only if it is in writing and signed by the party to be charged. No modification to this Agreement shall be valid unless said modification is approved by the affirmative vote of not less than three

members of the Board of Directors of District in public session, which action shall be reflected in the minutes of such meeting approving the modification.

Section 6.3 No 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 6.4 Savings Clause. If any provision of 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 any way.

Executed on this ___ day of November 2024, at Rocklin, California.

SOUTH PLACER MUNICIPAL UTILITY DISTRICT

By _____
Title: PRESIDENT

Attest:

By _____
Title: SECRETARY

Approved as to form

By _____
Title: GENERAL COUNSEL

Employee

By _____
ERIC NIELSEN