

**PORT SAN LUIS HARBOR DISTRICT
BUSINESS MANAGER EMPLOYMENT AGREEMENT**

This Employment Agreement ("Agreement"), between the Port San Luis Harbor District ("District"), and [REDACTED] ("Manager"), shall be effective as of February 1, 2011 ("Effective Date").

ARTICLE I - TERM OF EMPLOYMENT

Section 1.01 Grant and Acceptance of Employment/Term. The District hereby employs Manager under the terms and conditions stated in this Agreement, and Manager hereby accepts such employment beginning February 1, 2011, and continuing for a period of one (1) year, ending January 31, 2012, unless otherwise terminated prior thereto as provided in this Agreement ("Initial Term").

Section 1.02 Extension of Term. This Agreement shall automatically renew from year to year, for successive one (1) year terms ("Extended Term(s)") unless the Harbor Manager notifies the Manager of the District's decision not to extend the term of this Agreement no later than 60 days prior to the end of the Initial or any Extended Term.

ARTICLE II - DUTIES OF MANAGER

Section 2.01 General Duties. Subject to Section 2.04 below, Manager is employed as the Business Manager to perform all duties for and on behalf of the District consistent with the job description of the Business Manager, a copy of which is attached hereto as Exhibit A and incorporated herein by reference, and such other duties as the District, through the Harbor Manager, may direct from time to time.

Section 2.02 Scope of Employment. The Manager agrees to devote all of Manager's working time, ability and attention to the business of the District during the term of this Agreement. During the Initial and any Extended Term, Manager shall not directly or indirectly render any services of a business or commercial nature to any other person or organization (other than public sector, marina, port or harbor associations or organizations approved by the Harbor Manager, whether for compensation or otherwise) without the prior approval and written consent of the District. The Manager shall perform all services, acts or things necessary or advisable to manage and conduct the business of District, subject to the direction of the Harbor Manager and the policies set by the District from time to time.

Section 2.03 Work Schedule. The Manager's work schedule (and working time) shall generally conform to that of other employees of the District; however, it is recognized by both parties that the Manager's work schedule will be somewhat variable and may not always conform to a standard 40-hour workweek. The Manager shall be

required to work such additional hours as may be necessary to perform all of the duties of the Manager including, but not limited to, responding to emergencies and attending regular meetings of the Commission and its committees and such other meetings held outside of the District's regular hours of business as shall be helpful to conduct District business.

Section 2.04 Rules and Regulations. At all times during employment with the District, the Manager shall strictly adhere to and obey all the policies, rules and regulations now in effect or as subsequently adopted governing the conduct of employees of District. Additionally, the Manager shall act in a prudent, responsible and ethical manner as to matters not the subject of the District's rules and regulations so as not to cause or bring discredit or disrepute to the District, the Commission or the position of Business Manager.

Section 2.05 Change Duties. The District shall have the right at any time during the Initial or Extended Term to assign managerial or supervisory duties to the Manager different from the duties originally assigned and specified above, and may amend Exhibit A attached hereto accordingly.

Section 2.06 Performance. The Manager agrees to loyally and conscientiously perform all of the duties and obligations either expressly or implicitly required of the Manager by this Agreement. Manager agrees to comply with and submit to the directions, instructions and control of the Harbor Manager or his designee in the performance of the stated and implicit duties under this Agreement.

ARTICLE III - COMPENSATION OF MANAGER

Section 3.01 Base Salary. As of the Effective Date, and for the first year of the Initial Term, the District shall pay Manager a base monthly salary of Six Thousand and 00/100 Dollars (\$6,000) (the "Base Salary"), payable in increments according to District's periodic payroll disbursement and withholding policies or requirements.

Section 3.02 COLA and Discretionary Salary Adjustments. Each year that the Commission grants District employees a cost of living increase, Manager shall be granted a COLA increase in an amount equivalent to the Consumer Price Index ("CPI") for all urban consumers for Los Angeles, Anaheim, and Riverside (1982-84 = 100). Regardless of the amount of the increase granted to District employees, in no event, shall Manager's annual COLA adjustment be less than 1% or greater than 4%.

Section 3.03 Annual Review. Each year of this Agreement, the Harbor Manager shall review the annual goals and objectives set the prior year for Business Manager's position and review Manager's performance during that preceding year related thereto (the "Manager's Annual Review"). The Manager's Annual review will occur once for each year of this Agreement, on or near the anniversary date of this

Agreement.

Section 3.04 Merit Increases. Based upon the results of the Manager's Annual Review, and any other factors the District, acting through the Harbor Manager, deems relevant (including, without limitation, District budgetary considerations, salary surveys of comparable Districts or governmental entities), the Harbor Manager may, in his sole discretion, grant Manager a merit increase in compensation whether through an increase in Base Salary, a bonus or an increase in other benefits (as such benefits are provided for in Article IV of this Agreement - hereinafter, "Benefits"). Any merit increase shall be subject to the Harbor Manager and District's discretion in determining whether Base Salary, a bonus or other increase in Benefits is warranted and appropriate based on Manager's performance. Any bonus granted will be paid within a reasonable time after the District's decision to grant such merit increase. If the Harbor Manger elects to increase Benefits paid on behalf of the Manager, the increase will be effective within a reasonable time after the Harbor Manager grants such increase, but if granted after January 1 of the effective year, increased Benefits shall be prorated, and not granted or paid retroactively.

ARTICLE IV - BENEFITS

The Benefits provided below are all of the employee benefits to be given to Manager and are in lieu of benefits provided to other employees, including any benefits deemed applicable to unrepresented or exempt employees, under the District Employee Personnel Policies, any collective bargaining agreement, any then current memorandum of understanding or other agreement except as specifically provided herein.

Section 4.01 Vacation. Manager shall earn eight (8) hours of paid vacation leave for each month of employment with the District. Manager is encouraged to use all accrued vacation benefits each year. If, at any time, Manager's earned but unused vacation hours reach 240 hours, Manager will not accrue any additional vacation time until vacation time is used. If Manager later uses enough vacation benefits to fall below the maximum, the Manager will begin to earn benefits again until the maximum is once more reached. Vacation time may be taken upon reasonable advance notification given by Manager to the Harbor Manager. Upon separation from employment with the District for any reason, the Manager shall be entitled to be compensated for all accrued but unused vacation leave.

Section 4.02 Sick Leave. Manager shall accrue eight (8) hours of paid sick leave for each month of employment with the District. If Manager's accrued but unused sick leave exceeds 960 hours, Manager will not accrue any additional sick leave until the Manager uses enough benefits to fall below the maximum, after which Manager will begin to accrue sick leave benefits until the maximum is once more reached. Sick leave used by the Manager shall be governed by the same general requirements as those approved by the Commission for other District employees. Upon separation from

employment with the District for any reason, Manager shall be paid 100% of his accrued but unused sick leave (up to 960 hours) or, at Manager's election, she instead may apply a portion of or the unused and accrued sick leave balance to PERS service credit, provided application of sick leave to PERS service credit is allowed by agreement of the District and PERS pursuant to the plan in effect at that time. Such reimbursement shall be at Manager's salary rate at the time of separation, and shall reduce Manager's accrued sick leave to zero. After July 1, 2012, regardless of the amount of sick leave accrued to that date, no accrued sick leave will be paid out on separation of employment for any reason, but Manager may apply a portion of or the unused and accrued sick leave balance to PERS service credit, provided application of sick leave to PERS service credit is allowed by agreement of the District and PERS pursuant to the plan in effect at that time

Section 4.03 Administrative Leave. Manager will be credited with fifty (50) hours of Administrative Leave each July 1, prorated during the first year of this agreement. Administrative Leave is intended to compensate Manager for work done outside regular business hours and can be taken in increments of a minimum of four hours and can be taken by Manager at any time during the applicable year. Administrative Leave of more than one day is subject to reasonable advance notification given by Manager to the Harbor Manager. Administration Leave shall not accrue from year to year and shall be forfeited at the end of any eligibility year for which granted. Upon separation from employment with the District for any reason, Manager shall not be entitled to be compensated for any accrued but unused Administrative Leave.

Section 4.04 Holidays. Manager shall receive eleven paid holidays annually. Manager is, however, required to ensure coverage and management staff presence, during those periods established from time to time by the District to be "peak holiday" periods. Manager will ensure that appropriate representatives of department staff are onsite, or immediately available, at the Harbor during "peak holiday" periods. Manager's paid holidays will be:

New Year's Day, Martin Luther King's Birthday, President's Day, Memorial Day, July 4, Labor Day, Veterans Day (As observed by the state government), Thanksgiving Day, the Friday after Thanksgiving, and December 24 and 25.

If a listed paid holiday falls on regular or holiday day off, then, subject to coverage requirements set forth herein, Manager shall be entitled to substitute the nearest adjacent work day for the identified paid holiday.

Section 4.05 Pension Contribution. District shall pay 100% of the employer's share, and Manager shall pay 100% of the employee's share of the premium cost for the District employees' pension plan currently in effect or any successor plan as may become effective during the term of this Agreement.

Section 4.06 Health Plan. Manager may participate in Health and Dependent

Care flexible spending account programs in effect and generally available to other employees of the District. The District shall contribute flexible dollars and non-elective contributions towards Managers health insurance as described in the District's Section 125 Cafeteria Plan document. Total contributions shall equal the lowest cost HMO health care plan. Manager may opt to pay out-of-pocket costs on a pre-tax basis for other available health insurance plans, provided pre-tax payment is consistent with Internal Revenue Code regulations as they exist from time to time. The District shall provide flexible dollars for the purchase of dental insurance including insurance for Manager's spouse and eligible dependents. The District shall also contribute flexible dollars for the purchase of Manager only vision-care insurance.

Section 4.08 Contributions for Life and Disability Insurance. District agrees to pay on Manager's behalf, or for his benefit, the cost of term life and disability insurance as such insurance types and programs are offered through the District to all District employees, and provided, and only for so long as, such benefits are provided by the District to all other qualified District employees.

Section 4.09 Cell Phone Plan. The District shall reimburse manager in an amount established during the annual budget process, and as established for other District employees, for professional use of a personal cell phone.

Section 4.10 Other Benefits. Nothing in this Agreement shall preclude the District from providing to Manager additional leave time or benefits; provided, the granting of such additional leave time or benefits is specifically approved with regard to Manager and this Agreement is amended in writing based on such approval.

ARTICLE V - TERMINATION OF EMPLOYMENT

In addition to the expiration of this Agreement pursuant to Article I above, this Agreement may be terminated as follows:

Section 5.01 Termination By Disability. The Parties acknowledge and agree that during his employment with the District, Manager occupies a crucial and indispensable administrative position. Accordingly, the Parties agree that if by reason of disability the District may, to the extent permitted by and in accordance with the law, terminate this Agreement upon two weeks' advance written notice to Manager. For the purposes of this section, disability shall be defined as Manager's inability to carry out his material duties under this Agreement for more than 90 total calendar days in any 12 consecutive months due to mental or physical illness or injury.

Section 5.02 Termination By Death. The Parties agree that this Agreement shall terminate immediately upon Manager's death. Thereafter, all obligations of District under this Agreement shall cease and be extinguished, except for payment of all compensation, including any leave balances having cash value, due and owing at time

of death.

Section 5.03 Termination By District for Cause. District may terminate Manager at any time during the term of this Agreement for Cause (as defined below). In that event, District shall pay Manager all compensation then due and owing; thereafter, all of District's obligations under this Agreement shall cease. For purposes of this Agreement, "Cause" shall include the following: (a) malfeasance demonstrated by a pattern of failure to perform job duties diligently and professionally; (b) the willful refusal to implement or follow District's reasonable policies or directives; (c) the willful breach of a material provision of this Agreement; (d) committing an act of fraud or dishonesty against, or the misappropriation of property belonging to the District; or (e) the commission of an act that has a direct, substantial, and adverse effect on District's business interests or reputation. A termination under Section 5.01 (for disability) or Section 5.02 (for death) shall also be deemed to be a termination for Cause.

Section 5.04 Termination By District Without Cause. The District may terminate Manager at any time without Cause and with or without advance notice to Manager. If the District elects to terminate Manager without Cause and pursuant to the conditions of the preceding sentence, the District shall pay Manager all compensation due and owing through the last day she actually worked, and the severance amount provided in Section 5.07, below. For purposes of this Section 5.04, termination without Cause shall include the District's notice to Manager of its decision not to extend the term of this Agreement as set forth in Section 1.02, unless the District's decision not to extend the initial one-year term is due to conduct or circumstances that would otherwise constitute Cause for Manager's termination.

Section 5.05 Termination By Manager with Good Reason. Manager may immediately terminate this Agreement for Good Reason. For purposes of this Agreement, "Good Reason" shall mean: (a) the District's failure to pay Manager any amount or provide any benefit otherwise due hereunder or under any plan or policy of District, which failure is not cured within ten (10) days of receipt by District of written notice from Manager which describes in reasonable detail the amount which is due; or (b) the District assigns or requires Manager to perform duties or responsibilities substantially inconsistent with those of the Business Manager, or which are unethical or violate any laws, which assignment or requirement is not cured by the District within fifteen (15) days of receipt by the District of written notice from Manager describing in reasonable detail the assignment or requirement that violates this subsection (b). In the event of termination by Manager for Good Reason, District agrees to pay Manager the severance amount set forth in Section 5.07 below.

Section 5.06 Termination by Manager without Good Reason. Manager may terminate this Agreement at any time by giving at least thirty (30) days prior written notice to the District; however, Manager shall not be entitled to the severance pay set forth in Section 5.07 if she terminates this Agreement without Good Reason.

Section 5.07 Severance. If, during any Extended Term, but not the Initial Term, Manager's employment is terminated by District without Cause, as defined in Section 5.04, or by Manager with Good Reason, as defined in Section 5.05, the District shall pay to Manager in a lump sum at termination (less all applicable taxes, withholdings and payroll deductions) an amount equal to what would have been Manager's Base Salary plus continuation of existing health insurance coverage through COBRA only [i.e., no Benefits other than the health insurance] for an additional number of months equal to the number of whole years the Manager has been employed in any position in the District, up to a maximum of three (3) months, together with any vacation or other leave amounts accrued through the actual date of termination only. As a prior condition to Manager receiving any severance payment hereunder, Manager and the District shall execute a full mutual release of known and unknown claims against each other, their successors, affiliates, employees, agents, advisors and representatives, in mutually agreeable form.

Section 5.08 Termination Obligations. Manager agrees that all property including, without limitation, and whether tangible or intangible, equipment, confidential or proprietary information, documents, records, notes, contracts, and computer-generated materials furnished to or prepared by Manager incident to her employment belongs to District and shall be returned promptly to District upon termination of Manager's employment. Manager's obligations under this Section shall survive the termination of his employment and the expiration of this Agreement.

Section 5.09 Suspension. The District may, in its sole discretion, suspend Manager from duties, with or without pay, as necessary to conduct any investigation regarding Manager's service to District or any of Manager's other obligations under this Agreement. If the District suspends Manager from duties without pay for more than five (5) days, and such suspension is not based on Cause as defined by Section 5.03, such suspension shall be grounds for Manager to terminate this Agreement for Good Reason and thereby be subject to the severance payment provided by Section 5.07.

ARTICLE VI - GENERAL PROVISIONS

Section 6.01 Notices. Any notices to be given hereunder by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Notices delivered personally shall be deemed communicated as of actual receipt; mailed notices shall be deemed communicated as of 48 hours after mailing to the Manager's home address or to the District, addressed to the District office, addressed to the Harbor Manager.

Section 6.02 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 Manager by District and contains all of the covenants and agreements

between the parties with respect to such employment. The terms of the District Personnel Policies shall not be deemed to be part of this Agreement except as specifically stated in this Agreement. Any modification of this Agreement will be effective only if it is in writing and signed by the party to be charged.

Section 6.03 Severability. 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 and effect without being impaired or invalidated in any way.

Section 6.04 Material Provisions. The parties agree that each provision of this Agreement is a material provision and that failure of any party to perform any one provision hereof shall be the basis for voiding the entire Agreement at the option of the other party, or for pursuing an action at law for such breach. Any party may waive or excuse the failure of the other party to perform any provision of this Agreement; provided, however, that any such waivers shall not preclude the enforcement of this Agreement upon any subsequent breach, whether or not similar in character to any waived breach.

Section 6.05 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California. All actions or proceedings arising directly or indirectly from this Agreement shall be litigated only in state or federal courts for the County of San Luis Obispo, State of California, and Manager, as part of the consideration for the execution of this Agreement, hereby consents to the jurisdiction of any local, state or federal court situated within or for the County of San Luis Obispo, State of California.

Section 6.06 Death of Manager. If Manager dies prior to the expiration of the term of employment, any monies that may be due to Manager from District under this Agreement as of the date of Manager's death shall be paid to Manager's executors, administrators, heirs, personal representatives, successors and assigns.

PORT SAN LUIS HARBOR DISTRICT

Date: February 10, 2011

By:

BUSINESS MANAGER

Date: February 10, 2011



Exhibit A

Job Description – Business Manager



Job Title:	Business Manager
Classification:	Exempt
Supervisor:	Harbor Manager

Summary:

In line with the mission, goals, and strategic plan of the Harbor District, *to hold the waters and lands in trust for the public*, the Business Manager plans, organizes, and manages all harbor business and administrative activities, including business and property development, project planning, leaseholder relationships, budget development, management of human resources, and policy and procedure recommendation and implementation. The Business Manager partners with the other members of the Executive Team to meet the goals of the District.

Essential Duties and Responsibilities:

- Administer property management functions related to leases and licenses on harbor property. Develop recommendations regarding proposed development and property utilization of harbor real property and water areas. Negotiate, prepare and recommend lease, license and operating agreements. Review leases, licenses and special events applications; recommend periodic revisions to leases/licenses; review tenant revenues and cost of harbor services provided to tenants.
- Perform research and analysis on matters relating to property management and revenue generation from the use of Harbor District facilities.
- Promote and develop revenue producing activities within the harbor. Review and develop various current and proposed procedures to determine the potential for increased efficiency and income for harbor services.
- Analyze and recommend policies for various aspects of harbor operations including the most effective utilization of harbor resources. Develop, recommend, and implement Harbor District policies regarding administrative operations of the harbor, including property management and administrative related programs. Develop policy implementation procedures.
- Perform administrative functions of Personnel Manager for Harbor District.
- Manage the Administration and Accounting departments, including strategic planning, hiring, supervision, and training. Exercise specific supervision over Accounting Supervisor and Administrative staff. Plan, organize, and set work priorities for the Administration and Accounting departments.
- Coordinate and prepare annual Enterprise Fund, General Fund, Special Projects and Capital Projects budgets.

Other Duties and Responsibilities:

- Attend Harbor Commission meetings and interact with other agencies, organizations and committees as a representative of the Harbor District.
- Develop written reports and undertake special studies for Harbor Manager and Harbor Commission.
- Explain Harbor policies to employees, public, lessees, and patrons.
- Serve as acting Harbor Manager as required.

Desirable Skills, Knowledge, Abilities & Talents:

- **Business Management Knowledge:** Principles and practices of modern management, business operations, and techniques of property management; harbor facilities, fiscal management, and service operations. Principles, policies and administration for maintaining the safety of people, boats and property in a harbor and its facilities. Public administration of budget development and monitoring procedures. Principles of supervision necessary to manage Harbor Business Department. Business writing and oral presentation.
- **Resource Development:** Proven track record in grant research, application and compliance.
- **Compliance:** Knowledge of State and Federal personnel laws, policies and procedures.
- **Strategic Planning:** Plan and organize the activities of the Administrative and Accounting departments. Develop, recommend and implement Harbor District administration, personnel, and fiscal policies.
- **Client/Account Management:** Establish and maintain cooperative working relationships with harbor tenants; meet with potential licensees/lessees regarding business proposals on harbor property. Develop and promote appropriate business activities within the harbor and potential future property/business development.
- **Internal and External Communication:** Communicate effectively both orally and in writing; develop concise analyses and make effective recommendations for action. Make presentations before the Harbor Commission and other groups. Read, understand, and communicate Harbor District policies, regulations, contracts, agreements, leases/licenses and to staff, tenants, general public and patrons. Answer questions and resolve problem situations independently. Negotiating skills.
- **Recruitment:** Interview, select, train, supervise, evaluate, and terminate Administrative and Accounting staff.
- **Technical:** Proficient in word processing, spreadsheet software, and personal computer hardware. Create and utilize spreadsheets, databases, word processing and other software on a personal computer to develop comprehensive reports on Harbor operations.
- **Diversity:** Willingness to work with people from all walks of life, recognizing the talents they provide the organization.
- **Other:** Work nights, weekends and holidays on occasion. Work extended shifts in emergency situations. Carry and use, on and off duty, a cell phone and/or radio.

Education and Experience:

Equivalent to a Bachelors degree from an accredited college or university with major course work in business administration, accounting, public administration or a related field is desirable.

Any combination of experience, education and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be: Five years of increasing responsibility in finance, property management, special project management and personnel experience in public sector or related environment, with at least three of those years being in a supervisory/management position.

License or Certification:

Possession of or ability to obtain an appropriate valid California driver's license and show proof of insurance.

Physical Demands:

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Walking, standing or sitting for extended periods of time. Hearing and perception needed for: making observations; communicating with others; reading and writing; operating assigned equipment and vehicles; distinguishing different sounds during a fire or other audible emergency warning, and discriminating among different colors, distances and spatial relationships. Other physical demands include occasional lifting of 25 pounds, walking, some bending and stooping, squatting, and periods of standing.

Work Environment:

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Essentially a desk or bench job with exposure each day to unpleasant elements such as: dust, fumes and odors, or high noise levels within regulatory standards and limits. May work outside on an infrequent basis or on a regular basis for a short period of time. May travel from site to site with exposure to noise, dust, fumes, and inclement weather conditions. Work with computer and office equipment.

Acknowledgement:

I acknowledge that I have read the job description and requirements for the Business Manager position and certify that I can perform these essential functions.

Employee's Name _____

Applicant/Employee Signature _____

_____ Date

Supervisor's Signature _____

Management has the right to add or change these duties of the position at any time.