

Resolution No. 3756

Resolution of the Board of Directors of Oro Loma Sanitary District Appointing Jimmy Dang as General Manager and Approving an Employment Agreement Between the District and Jimmy Dang

WHEREAS, following the resignation of the District's previous General Manager, the Board of Directors retained Ralph Andersen & Associates to conduct a thorough recruitment for a new General Manager; and

WHEREAS, Jimmy Dang has been serving as the Interim General Manager of the Oro Loma Sanitary District for approximately five (5) months; and

WHEREAS, the District's Board of Directors desires to employ the services of Mr. Dang as the regular General Manager of Oro Loma Sanitary District; and

WHEREAS, Mr. Dang's base salary will be Two Hundred Seventy-Three Thousand Dollars (\$273,000), and he will receive additional health and welfare benefits as specified in the proposed Employment Agreement; and

WHEREAS, the Board desires to enter into an employment agreement with Mr. Dang to establish certain conditions of employment and set the benefits and compensation for Mr. Dang; and

WHEREAS, the Employment Agreement shall be effective January 1, 2023.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Oro Loma Sanitary District as follows:

1. Jimmy Dang is hereby appointed the General Manager of the Oro Loma Sanitary District.
2. The Employment Agreement with Mr. Dang, attached hereto as Exhibit A and incorporated herein, is hereby approved. The President of the Board of Directors is authorized and directed to execute the Employment Agreement.
3. This Resolution shall take effect immediately upon adoption.

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I certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly passed, approved, and adopted by the Sanitary Board of Oro Loma Sanitary

District, Alameda County, California, at a meeting thereof held on the 20th of December, 2022, by the following vote of the members thereof:

AYES, Members: Duncan, Lee, Simon, Stelzmann, Young

NOES, Members: None

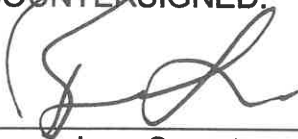
ABSTAIN, Members: None

ABSENT, Members: None



Fred Simon, President

COUNTERSIGNED:



Benny Lee, Secretary

## GENERAL MANAGER EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the "Agreement") is made and entered into as of December 20, 2022 by and between Oro Loma Sanitary District, a California public agency ("District") and Jimmy T. Dang ("Dang"). District and Dang may each be referred to herein as a "Party" or collectively as the "Parties".

### AGREEMENTS

**WHEREAS**, Dang is currently serving as the Interim General Manager of Oro Loma Sanitary District; and

**WHEREAS**, the District's Board of Directors (the "Board") desires to employ the services of Dang as the regular General Manager of Oro Loma Sanitary District (the "General Manager"); and

**WHEREAS**, the Board desires to provide certain benefits, establish certain conditions of employment, and set working conditions for Dang; and

**WHEREAS**, the Board desires to (i) secure and retain the services of Dang and to provide inducement for him to remain in such employment, and (ii) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security; and

**WHEREAS**, Employee desires to be employed as General Manager.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

### SECTION 1. DUTIES

1. The District hereby agrees to employ Employee as General Manager to perform the functions and duties as currently in effect or as hereafter may be established by the laws of the state of California and the District's ordinances and resolutions, and to perform other legally permissible and proper duties and functions as the Board may from time to time assign.
2. The term of this Agreement shall be from January 1, 2023 until terminated by either party in accordance with the provisions of Section 3.
3. Employee is an "at will" employee who shall serve at the pleasure of the Board. Accordingly, the Board of Directors may terminate Employee's employment at any time, with or without cause. The Parties recognize and affirm that there is no express or implied promise made to Dang for any form of continued employment, and this Agreement is the sole and exclusive basis for an employment relationship between District and Dang.

## **SECTION 2. COMPENSATION**

1. The District agrees to compensate Employee for his services as General Manager in an amount established by resolution of the Board of Directors and reviewed annually as appropriate. Said salary shall be paid bi-weekly. Employee's annual base compensation effective January 1, 2023 shall be Two Hundred Seventy-Three Thousand Dollars (\$273,000).
2. The Board shall conduct an annual performance evaluation of the Employee at least once a year. Following the performance evaluation, the Board shall consider Employee for a merit raise, to be determined in the sole discretion of the Board of Directors. Without limiting the foregoing, the Board can increase Employee's compensation by any amount or percentage at any time. The General Manager may periodically conduct comparative salary studies for the position and submit the results of these studies to the Board for reconsideration of the base salary.
3. In addition to any raise provided pursuant to Section 2.2 above, the General Manager's base compensation shall increase automatically every year by a percentage equal to the annual cost of living increase awarded to management employees.

## **SECTION 3. TERMINATION**

1. Employee serves at the pleasure of the Board, and the Board may terminate Employee's employment at any time, with or without cause. Should the Board terminate the Employee's employment with the District without cause, the Employee shall be entitled to the following severance:
  - a. The District shall provide a payment equal to six (6) months of base salary at Employee's then current rate of pay. The severance shall be paid in a lump sum unless otherwise agreed to by the District and the Employee.
  - b. The District shall provide Cobra coverage at the District's expense for health, dental, and vision benefits based on the then enrollment status of the Employee for six (6) months.
  - c. Employee shall also be compensated for 100% of accrued vacation, 100% of accrued floating holiday time, and 50% of accrued sick leave. The payment shall be paid in a lump sum unless otherwise agreed to by the District and the Employee.
2. Employee's receipt of the severance identified in Section 3.1 is contingent upon Employee signing and delivering a general release of all claims against

the District (including without limitation its former and current elected officials, employees, officers and agents) in a form acceptable to the District Counsel. Any severance amount paid pursuant to this Agreement shall be subject to the restrictions set forth in California Government Code section 53260. Pursuant to Government Code section 53243.2, any cash settlement related to the termination of this Agreement received by Employee from the District shall be fully reimbursed to the District if Dang is convicted of a crime involving an abuse of his office or position as defined in California Government Code section 53243.4.

3. If Employee is terminated for "cause," the District shall not owe any severance under this Agreement. Termination for "cause" may include, but shall not be limited to, the following:
  - a. Purposefully violating administrative policies and procedures;
  - b. Gross negligence in performance of assigned duties;
  - c. Theft of District property;
  - d. Insubordination;
  - e. Conviction of a felony or misdemeanor with a nexus to the workplace;
  - f. Unauthorized absence from employment;
  - g. Improper use of District funds;
  - h. Unauthorized use of District property;
  - i. Willful misconduct or malfeasance;
  - j. Any act of moral turpitude or dishonesty; and
  - k. Other failure of good behavior either during or outside of employment such that the Manager's conduct causes discredit to the District.
  
4. In the event Employee voluntarily resigns his position with the District, Employee shall provide the District sixty (60) days' written notice in advance, unless the parties otherwise agree.

#### **SECTION 4. BENEFITS**

1. In addition to the compensation set forth in Section 2 of this Agreement, Employee shall be entitled to receive the same benefits as are afforded to the District's management and confidential employees group, except as herein provided:
  - (a) As of January 1 of each year, Employee may participate in the District's defined contribution (401(a)) and deferred compensation (457(b)) plans. The District's contribution to the these plans shall be as follows:
    - i. 6.00% of Employee's base salary to Employee's 401(a) plan; and,
    - ii. \$0.50 per \$1.00 voluntarily contributed by Employee to his 401(a) plan, up to a maximum contribution of \$750 by the District; and,
    - iii. 5.00% of Employee's base salary to Employee's 457(b) plan; and,

- iv. \$1.00 per \$1.00 voluntarily contributed by Employee to his 457(b) plan, up to a maximum contribution by the District equal to 0.32% of Employee's base salary.
    - (b) Annual vacation accrual of 25 days per year. Employee shall notify the Board of any vacations longer than one day. Employee shall obtain prior approval from the Board for any vacation longer than ten (10) consecutive work days.
    - (c) District shall provide Employee a reimbursable account and/or direct payment by the District up to \$5,000 annually for actual costs for the purchase of personal life insurance and/or long-term disability insurance.
    - (d) District shall provide Employee an automobile allowance of \$500.00 per month.
  2. The position of General Manager is an FLSA-exempt position. Employee is not entitled to overtime, but may work flexible hours. Dang agrees to devote his productive time, ability, and attention to the District's business during the term of this Agreement.

## **SECTION 5. EVALUATION**

1. The Board shall review and evaluate the performance of the Employee in or around June of each year. During the annual performance evaluation, the Board shall identify goals and performance objectives which they determine necessary for the proper operations of the District. Without limiting the foregoing, the Board may evaluate the performance of the Employee at any time it deems necessary, in its sole discretion. The format of the performance evaluation shall be at the discretion of the Board.

## **SECTION 6. GENERAL PROVISIONS**

1. This Agreement shall constitute the entire agreement between the parties. This Agreement may not be amended or modified except by a written amendment signed by the Employee and District and duly authorized by the Board.
2. This Agreement shall be binding upon and inure to the benefit of the heirs, successors and assigns of the Parties.
3. The rights and obligations of the Parties shall be governed by the laws of the State of California.
4. Failure of either Party to exercise any right or remedy shall not act as a waiver to exercise that right.


5. Should any paragraph, subparagraph, sentence, clause or word included in this Agreement be found invalid by a court of competent jurisdiction, the balance of this Agreement shall remain in full force and effect.
6. This Agreement is not assignable by either Party.

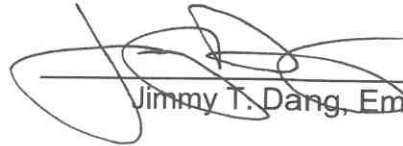
SIGNATURES ON FOLLOWING PAGE

IN WITNESS WHEREOF, the PARTIES hereto have hereunto affixed their signatures as of the date and year first above written.

**ORO LOMA SANITARY DISTRICT**

**EMPLOYEE**

  
\_\_\_\_\_  
President

  
\_\_\_\_\_  
Jimmy T. Dang, Employee

Countersigned:  
  
\_\_\_\_\_  
Secretary

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