

**EMPLOYMENT CONTRACT**  
**BETWEEN THE MOUNTAIN HOUSE COMMUNITY SERVICE DISTRICT**

THIS CONTRACT (hereinafter "Contract") is made and entered into this 10th day of April, 2013, by and between the Mountain House Community Services District, a Community Services District organized under the laws of the State of California, hereinafter called "District," and Janice L. McClintock, hereinafter called "Employee", and is effective as of April 15, 2013 ("Effective Date"); and, is made with reference to the following facts:

A. The District conducted a search for a General Manager to execute oversight and management of the District departments, develop and manage the budget and other functions as outlined in the laws of the State of California required in connection therewith.

B. While searching, the District identified and selected Employee for General Manager. The District needs the specialized skills of Employee, a professional manager, to act as its General Manager.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. DUTIES.

A. General.

District hereby employs Employee as General Manager to serve at the will of the District Board of Directors and to be subject to termination at any time with or without notice or cause in accordance with Sections 11 and 12 of this Contract. Employee hereby accepts such at will status, and agrees to render all management services as may be requested from time to time by the Board, as described in this Contract. Employee shall perform the functions and duties specified in the laws of the State of California, and the Ordinances and Resolutions of the Mountain House Community Services District. Employee acknowledges and agrees that as an employee that she cannot assign or subcontract to any other party the performance of any services described in this Contract.

Employee understands and agrees that she has no constitutional or legally protected property or other interest in her appointment as General Manager. Employee understands that she has accepted an appointment for five (5) years. This Contract may be terminated at any time at the will of the District, with or without cause or prior notice. In such event, Employee shall be entitled to payment for services rendered to the effective date of termination, but no other form of compensation will be owed unless otherwise provided in Section 12 of this Contract. Employee may resign at any time with or without cause so long as she gives at least 30 days advance written notice.

## SECTION 2. TERM.

A. The provision of services by Employee for this Contract shall be for five (5) years, commencing the April 15, 2013, and shall expire on April 14, 2018 at 11:59 p.m., subject to the termination, resignation and severance provisions of this Contract. Nothing in this Contract shall prevent, limit, or otherwise interfere with the right of the District to terminate the services of Employee at any time, subject to the provisions of Section 11. Nothing in this Contract shall prevent, limit or otherwise interfere with the right of Employee to resign at any time from his position with the District, subject to Section 11.

B. Employee shall remain in the exclusive employ of the District, and shall neither accept other employment nor become employed by any other employer except upon written approval of the District. Employee may continue to own and operate Employee's rock shop business as long as it does not interfere with the performance of her duties of General Manager.

C. The term "employed" shall not be construed to include occasional teaching, writing, or consulting performed on Employee's time off as long as said consulting work does not conflict with the interests of the District.

## SECTION 3. DISABILITY.

If Employee shall, for whatever reason, become incapable of performing any of the essential functions of Employee position, even with reasonable accommodation by the District, either

A. Permanently, or

B. For a period exceeding the period of leave available to Employee under the Family Medical Leave Act or the California Family Rights Act, or accrued sick leave, whichever is longer, then Employee shall be deemed to have suffered a disability. The District and Employee agree that said time period is a reasonable accommodation by the District, and that granting a longer time would be an undue hardship on District due to the nature and importance of the position of General Manager and the critical need that the District has for a General Manager, based, in part, on what happened in 2012 when it experienced extended periods of time without a functioning permanent General Manager.

## SECTION 4. TOTAL COMPENSATION.

The District agrees to pay Employee for her services as General Manager a base annual salary of One Hundred Thirty Thousand Dollars and No Cents (\$130,000.00) a year ("Annual Compensation") payable in periodic installments at the same time as other employees of District are paid subject to normal employee/employer withholdings.



SECTION 5. VACATION AND SICK LEAVE.

Employee shall be entitled to the following leave:

A. Vacation Leave: Employee shall accrue vacation at a rate of three weeks a year (4.616 hours per bi weekly pay period) during the first year of this Contract, and then four weeks per year (6.160 hours per bi weekly pay period) during the remaining term of this Contract in the same manner as other management employees of the District. In addition, Employee shall be provided with one week (40 hours) of vacation as having accrued as of April 15, 2013. Employee's vacation carry over shall be capped ("Cap") at a maximum of 280 hours. Any vacation accrued above the Cap shall be converted into sick leave. Vacation leave shall be used in accordance with District policy as delineated in Resolution Number 277, Section 9 subsection B,, setting forth the personnel policies and procedures.

B. Sick Leave: Employee shall accrue 12 days (8 hours per day) of sick leave per year. There shall be no carry over cap on Employee's sick leave. Sick leave shall be used in accordance with District policy as delineated in Resolution Number 277, Section 9, Subsection D, setting forth the personnel policies and procedures.

SECTION 6. BENEFITS.

Employee shall be entitled to the following benefits:

A. Retirement: Employee shall be entitled to participate in the District's current retirement plan which is the San Joaquin County 1937 Act Plan which is the 2% @ 55 1/2, highest single year plan, including any deferred compensation offered to District management employees. All benefits vest after 5 years of service, and a member may collect benefits when at least 10 years have elapsed between the membership date and the retirement date, and the member has attained the minimum service retirement age of 50.

B. Insurance: Employee shall be entitled to participate in the District's Cafeteria Plan at \$923.96 per pay period. In addition, to the extent allowed by law, the District shall pay Employee's Unemployment Insurance/ Old-Age, Survivors, and Disability Insurance (OASDI)/Medicare/Life Insurance/Workers Compensation Insurance offered by the District to management employees.

C. Car Allowance: \$110 per pay period.

D. Holidays: Employee shall be entitled to 10 holidays per year plus 4 floating (8 hour) days per year.

SECTION 7. PROFESSIONAL MEMBERSHIPS AND TRAINING.

Subject to regular budgetary approval by the Board of Directors, District agrees to pay for professional subscriptions and memberships for continuation and full participation in national, regional, state and local associations and professional organizations (ICMA, WLG, etc.)

necessary for the employees continued professional growth and advancement and for the good of the District. This will include travels and subsistence for professional meetings, committees, conferences, development, and other occasions necessary to pursue official functions for the District. This isn't meant to be open ended. By tying it to the approved budget, the Board has regular control over the amount put into the budget for this purpose. Additionally, any training / conference travel would be subject to the approved travel policy of the Board.

SECTION 8. REIMBURSEMENT OF BUSINESS EXPENSES.

To the extent Employee necessarily incurs expenses in the performance of her duties, Employee will receive reimbursement therefor consistent with District policies and procedures and any applicable laws. Employee shall submit a claim form to District in the form and manner required of any employee.

SECTION 9. RELOCATION INCENTIVE

The District shall pay Employee a one time lump sum as a one-time relocation incentive in an amount of Eight Thousand Dollars and No Cents (\$8,000.00). Said amount shall be in addition to her Annual Compensation and shall be paid in the first payroll cycle of Employee's employment with the District. No receipts of evidence of how said amount was used shall be required.

SECTION 10. HOURS OF WORK.

Employee is expected to devote a great deal of time outside normal office hours to business of the District.

SECTION 11. TERMINATION

A. Termination by District: The Board of Directors may terminate this Contract, with or without cause, by a majority vote of the Board.

B. Termination Procedure: If the Board of Directors at a properly noticed meeting is considering terminating this Contract, Employee shall be provided the opportunity to address the Board of Directors present at said meeting prior to any vote to terminate the Contract.

C. Termination Without Cause: In the event the Board of Directors terminates this Contract without cause and for the convenience of the District, Employee shall be entitled to severance pay as described in Section 12 of this Contract. No other forms of compensation or benefits are included in the severance, other than any that may be required by state or federal law. The severance pay shall be paid, for the benefit of Employee on the same dates as regular payroll payments to District employees. Such payments shall not be reduced by reason of other compensated engagements secured by Employee during the period severance payments are made as set forth in Section 12 following the date of termination. It is mutually understood and agreed that upon any termination of this Contract without cause and for the convenience of the District, the severance compensation shall constitute the only obligation owed by District to Employee.

D. Events which Terminate Contract: This Contract shall terminate automatically upon the occurrence of any of the following events:

1. The death of Employee.
2. The dissolution or bankruptcy of the District.



3. The disability of Employee, as defined in Section 3 of this Contract.

4. The majority of the Board of Directors of the District votes to terminate Employee at a duly authorized meeting without cause.

5. If the District, citizens or legislature act or acts to amend any provision of applicable law which substantially changes the role, powers, duties, authority, or responsibilities of Employee, Employee shall have the right to declare that such amendments constitute termination.

6. If the District reduces the base salary, compensation or any other financial benefit of Employee, unless it is applied in no greater percentage than the average reduction of all department heads, Employee shall have the right to declare that such action shall constitute a breach of this Contract and regard it as termination.

7. If Employee resigns following an offer to accept resignation, or a suggestion that she resign, whether formal or informal, by any member of the Board of Directors of the District acting as an authorized representative of the majority of the Board of Directors, then Employee may declare a termination of this Contract as of the date of the suggestion.

8. Upon a breach of contract declared by either party following a thirty (30) day cure period for either Employee or the District. Written notice of a breach of contract shall be provided by the party declaring a breach of contract to party accused of breaching the contract.

9. Conviction of Employee of any public offense which is a felony, and/or involves moral turpitude, and/or the punishment for which includes a prohibition of holding public employment.

10. If the majority of the Board of Directors of the District votes to terminate Employee at a duly authorized meeting with cause for one or more of the following causes:

- (i) Immoral or unprofessional conduct;
- (ii) Dishonesty, gross carelessness, misconduct or neglect;
- (iii) Abuse of drug or alcohol which materially affects the performance of Employee's duties.
- (iv) If Employee is insubordinate or is grossly negligent in performing her duties pursuant to this Contract.
- (v). If Employee violates any policies of the District.
- (vi). If Employee willfully refuses to carry out the lawful directives of the District's Board of Directors.
- (vii). If Employee habitually fails to report to work.
- (viii). If Employee commits actions of fraud, embezzlement, bribery, or other similar serious acts in connection with Employee's employment with the District.

## SECTION 12. SEVERANCE PAY

In the event the Board of Directors elects ("Board Action") to terminate this Contract without cause pursuant to Section 11(C) of this Contract, Employee shall be entitled to a cash settlement as follows:

- a. If the Board Action terminating the Contract pursuant to Section 11(C) occurs prior to April 15, 2014, Employee shall receive a one-time severance payment equal to six months of Employee's Annual Salary.
- b. If the Board Action terminating the Contract pursuant to Section 11(C) occurs after April 14, 2014 but prior to April 15, 2015, Employee shall receive a one-time severance payment equal to four months of Employee's Annual Salary.
- c. If the Board Action terminating the Contract pursuant to Section 11(C) occurs after April 14, 2015 but prior to April 15, 2016, Employee shall receive a one-time severance payment equal to two months of Employee's Annual Salary.
- d. If the Board Action terminating the Contract pursuant to Section 11(C) occurs after April 14, 2016, and said Board Action occurs within One Hundred and Fifty Days of the date a new Board Member is sworn as a District Board of Director, Employee shall receive a one-time severance payment equal to two months of Employee's Annual Salary.

Said cash settlement shall be treated as salary and paid consistent with regular payroll with no additional payments or benefit payments. The severance benefits set forth in this Section 12 shall not apply to any other reason for termination other than termination without cause and for convenience under Section 11(C).

### SECTION 13. ANNUAL PERFORMANCE EVALUATION

The Board of Directors shall conduct an annual performance evaluation of the General Manager in closed session within 60 days of April 15, 2014 and each year thereafter of this Contract unless Employee agrees to allow the evaluation to occur beyond the 60 day period. In the event that the Board of Directors fails to conduct a performance evaluation in accordance with this Section, and has failed to timely cure after receipt of a notice set forth in Section 11(D)(8), said failure shall constitute a material breach and termination of this Contract. Employee expressly agrees that the damages for a material breach of this Section shall be limited to the amount of severance that the Employee would be entitled to under Section 12 had the District elected to terminate her employment without cause under Section 11(C). For a breach occurring after April 14, 2016, Employee shall only be entitled to damages equal to two months of Employee's Annual Salary. This Section shall not prevent the District from conducting a performance evaluation of the Employee more frequently than once a year.

### SECTION 14. INDEMNIFICATION.

Beyond that required under Federal, State or Local Law, the District shall defend, save harmless and indemnify Employee against any claim, tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as General Manager, or resulting



from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. Employee may request and the District shall not unreasonably refuse to provide independent legal representation at the District's expense and the District may not unreasonably withhold approval. Legal representation, provided by the District for Employee shall extend until a final determination of the legal action including any appeals brought by either party. The District shall indemnify Employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon, or suffered by Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of her duties. Any settlement of any claim must be made with prior approval of the District in order for indemnification, as provided in this Section, to be available.

Employee recognizes that the District shall have the right to compromise or settle a claim or suit and agrees that she will sign any settlement agreement involving only the payment of money by the District or a third party. However, if Employee is a named party to the suit and the settlement agreement requires that Employee perform or refrain from performing any conduct, Employee's written consent must be given for the compromise or settlement, which consent shall not be unreasonably withheld. Further, the District agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which Employee is a party, witness or advisor to the District. Such expense payments shall continue beyond Employee's service to the District as long as litigation is pending. Further, the District agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to the District regarding pending litigation if those services occur after Employee is no longer an employee of the District.

#### SECTION 15. OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

A. The District, in consultation with Employee, shall fix any such other terms and conditions of employment as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Contract, the District's Ordinances, or any other law.

#### SECTION 16. NOTICES.

Notices pursuant to this Contract shall be in writing given by deposit in the custody of the United State Postal Service, postage prepaid, addressed as follows:

- (1) The District:       President of Board of Directors.  
                              Mountain House Community Services District  
                              230 S. Sterling Drive  
                              Suite 100  
                              Mountain House, CA 95391



(2) Employee: Janice L. McClintock  
1881 Anthony Way  
Yuba City, CA 95993

Alternatively, notices required pursuant to this Contract may be personally served in the same manner as is applicable to civil judicial process. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice with the United States Postal Service. Either party may change the mail address in this Section 16 upon written notice to the other party.

#### SECTION 17. GENERAL PROVISIONS.

- A. The text herein shall constitute the entire Contract between the parties.
- B. This Contract shall be binding upon and inure to the benefit of the heirs at law and executors of Employee.
- C. This Contract shall become effective on the Effective Date first written above.
- D. If any provision, or any portion thereof, contained in this Contract is held unconstitutional, invalid or unenforceable, the remainder of this Contract, or portion thereof, shall be deemed severable, shall not be affected and shall remain in full force and effect.
- E. Any disputes arising from this Contract shall first be submitted to nonbinding mediation with each party to bear its/his own costs and legal fees. Should litigation result from such unresolved dispute(s), each party shall bear that party's own legal fees and costs. The prevailing party in any litigation shall not be entitled to an award of reasonable attorney's fees.
- F. Any failure of a party to insist upon strict compliance with any term, undertaking, or condition of this Contract shall not be deemed to be a waiver of such term, undertaking, or condition. To be effective, a waiver must be in writing, signed and dated by both parties.
- G. This Contract shall be governed by and construed in accordance with the laws of the State of California. Employee and District agree that venue for any dispute shall be San Joaquin County Superior Court.
- H. This Contract may be executed in counterparts, each of which shall be deemed to be an original, but all of which, when taken together, shall constitute one and the same instrument.
- I. This Contract constitutes the entire understanding and Contract between the parties as to those matters contained in it, and supersedes any and all prior contemporaneous agreements, representations and understandings of the parties. This Contract may be amended at any time by mutual agreement of the parties, but any such amendments must be in writing, dated, approved by the Board at a regular meeting and signed by the parties and attached hereto.

IN WITNESS WHEREOF, the Mountain House Community Services District has caused this Contract to be signed and executed in its behalf by its President and duly attested by its District Clerk and Employee has signed and executed this Contract, both in duplicate, the day and year first above written.

"DISTRICT"

MOUNTAIN HOUSE COMMUNITY  
SERVICES DISTRICT

By:   
CELESTE FARRON, President

ATTEST:



RICHARD RAMIREZ, Secretary of the District

APPROVED AS TO FORM:



DANIEL J. SCHROEDER, District Counsel

"Employee

  
JANICE L. MCCLINTOCK