

RESOLUTION NO. 2020-34

**APPROVING THE TEMPORARY APPOINTMENT OF
RETIRED ANNUITANT MONIQUE MADRID IN ACCORDANCE
WITH GOVERNMENT CODE SECTIONS 7522.56 AND 21224,
AND EXECUTIVE ORDER N-25-20**

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MID-PENINSULA WATER DISTRICT

WHEREAS, the Mid-Peninsula Water District is a Water District duly organized and operating pursuant to the County Water District Law, California Water Code sections 30000 to 33901 et seq.; and

WHEREAS, the Board of Directors of the Mid-Peninsula Water District ("District") may take all actions necessary for the proper administration of the District; and

WHEREAS, the General Manager and Board of Directors may contract for or employ any professional service required by the District or for the performance of work or services that cannot satisfactorily or economically be performed by the regular employees of the District; and

WHEREAS, Monique Madrid [CalPERS ID # redacted] will retire from the Cambria Community Services District, effective October 1, 2020; and

WHEREAS, the General Manager of the District has determined that the Appointee has the skills needed to perform higher level administrative management work, including policy development and records retention implementation, and to ensure adequate staffing to perform such work during the statewide state of emergency due to the COVID-19 pandemic, and wishes to appoint Monique Madrid (the "Appointee") as an extra help retired annuitant on a temporary part-time basis to perform such duties; and

WHEREAS, the Appointee will be a retired annuitant entitled to receive retirement benefit payments under the California Public Employees' Retirement System ("CalPERS"), which benefits were accrued based on service with the District, and/or one or more additional CalPERS contracting agencies; and

WHEREAS, the Appointee's employment as a retired annuitant is subject to the requirements of sections 7522.56 and 21224 of the Government Code, which govern the appointment of extra help retired annuitants by a CalPERS contracting agency; and

WHEREAS, pursuant to State of California Executive Order N-25-20, issued after the Governor of the State of California declared a statewide state of emergency due to the COVID-19 pandemic, in order to ensure adequate staffing for public agencies during the statewide state of emergency, the 180-day break-in-service requirement and work hour limitations for retired annuitants set forth in sections 7522.56 and 21224 of the Government Code, are suspended effective March 12, 2020 until the state of emergency is lifted; and

WHEREAS, requirements set forth in sections 7522.56 and 21224 of the Government Code regarding payment to retired annuitants of no more than the maximum monthly base salary paid to employees performing comparable duties, and the prohibitions on receipt by retired annuitants of a Golden Handshake or of any benefit, incentive, or compensation in lieu of benefit or other form of compensation in addition to hourly pay rate, continue to apply during the state of emergency under Executive Order N-25-20; and

WHEREAS, the Board of Directors intends that the appointment of Monique Madrid as an extra help retired annuitant meet all applicable, non-suspended requirements of sections 7522.56 and 21224 of the Government Code; and

WHEREAS, the General Manager and Board of Directors, and Monique Madrid certify that Monique Madrid has not and will not receive a Golden Handshake or any other retirement-related incentive; and

WHEREAS, the entire employment agreement, contract or appointment document between Monique Madrid and the District has been reviewed by the Board of Directors and is attached hereto; and

WHEREAS, no matters, issues, terms or conditions related to this employment and appointment have been or will be placed on a consent calendar; and

WHEREAS, the compensation paid to retirees cannot be less than the minimum nor exceed the maximum monthly base salary paid to other employees performing comparable duties, divided by 173.333 to equal the hourly rate; and

WHEREAS, the maximum hourly rate for employees performing comparable duties to those the Appointee will perform is \$53.02 and the minimum hourly rate is \$40.79, and

WHEREAS, the hourly rate paid to the Appointee will be between \$40.79 the minimum hourly rate and \$53.02 the maximum hourly rate, to be determined by the General Manager as authorized by the Board of Directors; and

WHEREAS, the Appointee has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to the hourly pay rate.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

That the Board of Directors hereby certifies the nature of the appointment of Monique Madrid as described herein and the attached appointment document, and that this appointment is necessary to perform the critically needed duties described herein for the Mid-Peninsula Water District, because Monique Madrid possesses extensive, highly specialized skills and experience needed to attend to higher level administrative management work, including policy development and records retention implementation, in order to ensure

adequate staffing to perform such work during the statewide state of emergency and approves the temporary appointment of Monique Madrid as described herein.

REGULARLY PASSED AND ADOPTED this 24th day of September 2020.

AYES: *Directors Schmidt, Vella, Warden, Wheeler, Zucca*

NOES: *0*

ABSTENTIONS: *0*

ABSENCES: *0*

Matthew Zucca

BOARD PRESIDENT

ATTEST:

Arduce R. Pina

BOARD SECRETARY



**MID-PENINSULA
WATER DISTRICT**

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September 21, 2020

Monique Madrid
[Address Redacted]

Re: Offer of Temporary Part-Time Employment at the MPWD
as Management Analyst, subject to CalPERS Retired Annuitant Laws

Dear Monique:

We are looking forward to you joining our team after your retirement from the Cambria Community Services District, effective October 1, 2020.

As we discussed, because MPWD will employ you after you have retired under, and will become eligible to begin receiving retirement benefit payments from the California Public Employees' Retirement System ("CalPERS"), i.e. after you become a CalPERS "retired annuitant", the reasons for and the terms of your employment must meet specific requirements in order for you to continue to receive your CalPERS retirement benefits while you are employed by MPWD. Because your employment is subject to these CalPERS retired annuitant laws (Government Code Sections 7522.56 and 21224), a formal resolution for your appointment is required, which is attached for your review (Resolution 2020-34). The Board of Directors will consider it on September 24, 2020.

In general, CalPERS law prohibits a retired annuitant from employment with a CalPERS employer unless she is reinstated from retirement. California Government Code sections 7522.56 and 21224, however, allow a retired annuitant, such as you, to work for a public agency employer, such as MPWD, without reinstatement into CalPERS and loss or interruption of her CalPERS benefits if she is employed by appointment that:

1. Is either (i) in an emergency to prevent stoppage of work, or (ii) because she has special skills needed to perform work of "limited duration";
2. Does not exceed 960 hours in any fiscal year for all CalPERS employers;
3. Provides for an hourly rate of pay that is neither less the minimum nor more than the maximum monthly base salary paid by the employer to other employees who perform comparable duties, as listed on a publicly available pay schedule, divided by 173.33; and
4. Does not provide for any other benefit, incentive, compensation in lieu of benefits, or other form of compensation.

Under this exception, the retiree generally cannot be employed within 180 days of her retirement, unless she did not receive any incentive to retire, and the appointment is: 1) employer certified as necessary to fill a critically needed position before 180 days has passed, and 2) approved by the employer's governing body at a public meeting. In addition, to qualify for this exception, the retiree cannot have received any unemployment compensation arising out her prior employment during the 12-month period preceding the appointment. By accepting this offer of employment, you are certifying that you have not received unemployment compensation during the 12-month period preceding this appointment.

Further, you are aware that California's Governor declared a statewide emergency due to the COVID-19 pandemic, and in order to ensure adequate staffing for public agencies during the declared emergency, the 180-day break-in-service requirement and work hour limitations for retired annuitants set forth in Government Code Sections 7522.56 and 21224 and described above are suspended effective March 12, 2020, until the emergency is lifted.

MPWD has determined that you have specialized skills needed to perform the work for which you are being employed, and that your employment is permitted under CalPERS law currently in effect. However, if CalPERS were to conclude that your employment by MPWD does not meet the aforementioned requirements for an exception to reinstatement from retirement currently in effect, and that you are "unlawfully employed," you would be subject to penalties, which could include:

- Mandatory reinstatement from retirement, retroactive to the effective date of this offer – this means that your retirement benefits payments will stop;
- Required reimbursement of CalPERS for the total retirement benefits you received during the period of "unlawful employment";
- Required payment, through MPWD, of any employee retirement contributions that would have been submitted during your period of "unlawful employment"; and
- Required reimbursement of CalPERS for any administrative expenses incurred to process your mandatory reinstatement to the extent you are found to be at fault.

Finally, as discussed, we offer you this position on the following terms and conditions:

1. Your position title will be Management Analyst, a non-exempt position that is "terminable at will" and will include the duties and responsibilities outlined in the attached position description. "Terminable at will" means that you may terminate your employment at any time, for any reason or no reason, with or without cause or notice to MPWD. Similarly, MPWD may terminate your employment at any time for any legal reason, with or without cause and upon notice to you. As a courtesy, however, we ask that you provide MPWD with

notice should you decide to end your employment so that we may insure a smooth transition. "Terminable at will" also means that terms and conditions of your employment with MPWD may be modified at the discretion of MPWD with or without notice to you. Examples of the types of terms and conditions of employment that are within the discretion of MPWD to modify at any time include, but are not limited to: promotion, demotion, transfers, hiring and discharge decisions, layoff or recall, rules, hours and schedules, work assignments, job duties and responsibilities, determinations concerning the use of methods equipment or facilities and any other terms and conditions that MPWD may determine to be necessary for the safe, efficient and economic operation of its business. Only the Board of Directors has the authority to make any agreement limiting MPWD discretion to modify terms and conditions of your employment or for other than "at will" employment, and any such agreement must be in writing. No implied contract concerning any employment-related decision or term or condition of employment can be established by any other statement, conduct, policy or practice. By accepting this offer of employment, you agree that your employment is terminable at will as described herein and acknowledge that, other than by written agreement with the Board of Directors, your employment cannot be changed from "at will."

2. You will report to me as General Manager.
3. Conditions of employment include a criminal background check, contact with previous employers and references, DMV report, and verification of identity and right to work in the United States (I-9 form). We will provide the necessary background check forms after your acceptance.
4. Your personal vehicle insurance (e.g., copy of the declarations page) will be required, along with a valid California driver's license.
5. Your start date should be on or about Monday, October 5, 2020. We will work with you after all pre-employment requirements are satisfied.
6. Your work schedule will temporary based upon the workload assigned by the General Manager. It will also be part-time (up to 30 hours per week unless more hours are approved in advance or authorized by me as General Manager). Finally, your employment will be a remote assignment with periodical in-person meetings at the MPWD as needed and mutually determined. Your travel expenses will be reimbursed by the MPWD.
7. Your compensation will be \$50 per hour, payable every other Friday.
8. No other benefit, incentive, compensation in lieu of benefit, or other form of compensation will be paid in accordance with law related to CalPERS retired annuitants. This means that you will not be entitled to receive vacation, dental, medical, vision, disability or life insurance benefits in this position. You will not earn service credit or otherwise earn additional retirement benefits under CalPERS during your period of employment with MPWD.
9. As a result of the COVID-19 pandemic and San Mateo County Health Officer's shelter-in-place order, the MPWD is committed to working safely as an essential service and critical infrastructure water supplier. Each employee must adhere to added safety procedures as outlined in the attachment. Please review carefully to ensure your commitment as well.

Monique Madrid
September 21,2020
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Since this is a formal confirmation of our job offer, please signify your formal acceptance by countersigning and returning a signed copy to me. Please let me know if you need us to mail hard copies to you.

We are looking forward to having you join our team!

Sincerely,




Tammy A. Rudock
General Manager

Attachments: Resolution 2020-34
MPWD Management Analyst Position Description
MPWD Employee Workplace Safety Procedures During COVID-19 Pandemic

I hereby affirm my understanding and acceptance of the foregoing job offer and agree that it contains the terms of employment with the MPWD, and that there are no other terms expressed or implied.



Monique Madrid

Date