

# **SANTA CRUZ METROPOLITAN TRANSIT DISTRICT**

## **CHIEF EXECUTIVE OFFICER/GENERAL MANAGER EMPLOYMENT AGREEMENT**

THIS CHIEF EXECUTIVE OFFICER/GENERAL MANAGER EMPLOYMENT AGREEMENT ("Employment Agreement") is entered into as of March 25, 2022, by and between THE SANTA CRUZ METROPOLITAN TRANSIT DISTRICT (hereinafter referred to as "Santa Cruz METRO" or "Employer"), and MICHAEL TREE (hereinafter referred to as "Mr. Tree" or "Employee").

### **RECITALS**

WHEREAS, the Board of Directors of the Santa Cruz METRO is authorized pursuant to the Santa Cruz Metropolitan Transit District Act of 1967, Sections 98140 of the California Public Utilities Code to appoint and fix the salary of the Chief Executive Officer/General Manager; and

WHEREAS, the Board of Directors of the Santa Cruz METRO desires to appoint Mr. Tree to the position of Chief Executive Officer/General Manager; and

WHEREAS, Mr. Tree will serve as an at-will employee in the position of Chief Executive Officer/General Manager, subject to the terms and conditions of this Employment Agreement.

THEREFORE, in consideration of the terms and conditions of this Employment Agreement, the parties agree as follows:

1. **Term.** Santa Cruz METRO agrees to employ Employee, and Employee accepts employment as Chief Executive Officer/General Manager of Santa Cruz METRO for a period of sixty (60) months commencing on April 25, 2022

("Commencement Date"). Notwithstanding the foregoing, Employee is "at will", exempt from overtime payment, and serves at the pleasure of the Board of Directors of Santa Cruz METRO and may be removed, with or without cause, by an affirmative vote of the majority of the Board at its sole discretion, subject to the terms expressed in this Agreement.

2. **Duties of Employee.**

a. Duties. Employee agrees to perform in good faith the duties and responsibilities of Chief Executive Officer/General Manager. As such, Employee will have the responsibility for the proper administration of Santa Cruz METRO in accordance with Federal and State law and such ordinances, resolutions and policies as have been or may be established by the Board of Directors. Employee will have responsibility for the active management of Santa Cruz METRO and general supervision and management of the affairs of Santa Cruz METRO, as otherwise determined by the Board of Directors. Employee's duties will also include but not be limited to those set forth in California Public Utilities Code Section 98000 et seq. (as amended) and the Santa Cruz METRO Board of Director's bylaws (as amended). Employee's specific responsibilities will include, but will not be limited to, the job description attached hereto as Exhibit A.

b. Devotion of Entire Time to Santa Cruz METRO's Business. During the term of Employment Agreement, Employee agrees to devote substantially his entire time, effort and attention to the business of Santa Cruz METRO as may be necessary to faithfully and fully perform his duties. The expenditure of reasonable amounts of time for personal business, charitable and professional activities will not be deemed a breach

of this Employment Agreement provided such activities do not interfere with the services required to be rendered to Employer hereunder.

c. Loyalty. Employee agrees that to the best of his ability and experience, he will at all times loyally and conscientiously perform all of the duties and obligations in the best interest of Santa Cruz METRO required of him, either expressly or implicitly, by the terms of this Employment Agreement.

3. **Compensation**.

a. Salary. As compensation and in consideration for the services rendered by Employee under this Employment Agreement, Santa Cruz METRO will pay Employee a gross salary at the rate of Twenty-One Thousand and Two Hundred and Fifty Dollars (\$21,250) per month, starting on April 25, 2022 ("Anniversary Date"). Such salary will be paid in accordance with Santa Cruz METRO's customary payroll practices. Prior to the Anniversary Date of each year of this Employment Agreement, the Santa Cruz METRO Board of Directors will review the performance and salary of Employee. Upon satisfactory performance of duties, as determined by the Board of Directors during Employee's annual performance review, including metrics defined by the Board of Directors, Employee will receive a 5% performance pay increase on the Anniversary Date of his employment, beginning in calendar year 2023, and each Anniversary Date thereafter upon a showing of satisfactory performance. Unless mutually agreed to by the parties, after the third year of this Employment Agreement, cost of living adjustments approved by the Board of Directors applying to the rates of compensation in the Management Wage Schedule will not be applied to Employee's salary.

b. Deferred Compensation & Retirement Benefits. Santa Cruz METRO will pay the employer contribution and Employee will pay the required member contribution, in accordance with the Public Employees' Pension Reform Act ("PEPRA") as required by the California Public Employees' Retirement System ("CalPERS") and in accordance with Santa Cruz METRO's established policies, the Public Employees' Retirement Law ("PERL") and applicable CalPERS regulations. In accordance with PEPRA, Employee's "pensionable compensation" will be subject to the maximum defined in PERL section 7522.10, as adjusted annually by CalPERS.

In addition, subject to the annual compensation limit under Internal Revenue Code ("Code") section 401(a)(17), as adjusted from time to time, Santa Cruz METRO will contribute an amount equivalent to a percentage (which percentage shall be equal to the contribution rate, as a percentage of pay, paid by Santa Cruz METRO to CalPERS for employees who are PEPRA members covered by the Santa Cruz METRO Management Compensation Policy), up to fourteen (14) percent of Employee's gross salary to Santa Cruz METRO's deferred compensation plan established pursuant to Code Section 457(b). Santa Cruz METRO's retirement plan and Code Section 457(b) deferred compensation plan, and any contributions by Santa Cruz METRO thereto, may be modified from time to time in the sole discretion of Santa Cruz METRO, and Employee shall not have a vested right to continue receiving such contributions. If the contribution by Santa Cruz METRO to the deferred compensation plan described above is less than fourteen (14) percent of Employee's gross salary for any fiscal year, Santa Cruz METRO will pay to Employee the balance (up to fourteen (14) percent of

Employee's gross salary) as taxable compensation, which shall not be "pensionable compensation."

c. Employment Taxes. All salary paid by Santa Cruz METRO to Employee will be subject to income tax withholding and other employment taxes as required by law.

d. Car Allowance. Employee will use his own personal car for Santa Cruz METRO business. The parties recognize that a significant component of the performance of Employee's job duties involves travel, excluding regular commute travel, to events and meetings away from Santa Cruz METRO premises. Accordingly, Santa Cruz METRO will pay Employee a car allowance of Five Hundred Dollars and No Cents (\$500.00) per month to cover all automobile costs, including insurance, repairs and fuel. The car allowance will be treated as taxable compensation for purposes of employment tax, but will not be treated as pensionable compensation under the PERL.

e. Moving Allowance and Temporary Housing. In light of the need for Employee to relocate his place of residence, Santa Cruz METRO will pay the actual and reasonable expenses incurred by Employee as a result of moving up to the amount of Ten Thousand Dollars (\$10,000), with the understanding that Employee will obtain three vendor quotes and will choose the lowest quote. Santa Cruz METRO will also reimburse Employee for the mileage (at current IRS rates) for driving two vehicles from his current place of residence to his relocated place of residence in Santa Cruz County. In addition, Santa Cruz METRO will cover the costs of Employee's temporary housing (in an amount not to exceed Five Thousand Five Hundred Dollars (\$5,500) per month) for up to four months. If during the term of this Employment Agreement Employee purchases a

home in Santa Cruz County, Santa Cruz METRO will also make a one-time cash payment to Employee in the amount of \$5,000 upon receiving proof that Employee has closed escrow on his purchase. Santa Cruz METRO will pay Employee a tax gross-up payment (for taxes on the costs described in this paragraph e. only) in an amount such that, after the payment of all federal and state income taxes on any and all portions of the moving and relocation costs described herein that are not excludible from the Employee's taxable income, Employee will be in the same income tax position as if the entire moving and relocation costs described in this paragraph e. were excludible from his income for federal and state income tax purposes.

f. Cell Phone. Employee will use his own personal cell phone for Santa Cruz METRO business and will receive a bi-weekly cell phone allowance in the amount of \$75 during the term of this Employment Agreement. The cell phone allowance will be treated as taxable compensation for purposes of employment tax, but will not be treated as pensionable compensation under the PERL.

g. Expenses. Santa Cruz METRO will provide Employee reasonable and necessary business equipment and supplies in order to carry out the performance of his duties and responsibilities as set forth in this Employment Agreement, in accordance with Santa Cruz METRO's normal practice. Santa Cruz METRO will also pay for Employee's business related membership dues and the cost of necessary professional publications. During the term of this Employment Agreement, Employee will be entitled to request payment by, or to receive reimbursement from Santa Cruz METRO for all reasonable and necessary substantiated expenses incurred by Employee in performing his duties; such payments or reimbursements must be approved by either the Chair or

Vice-Chair of the Board. Such reimbursements will not be considered compensation, for either tax or retirement benefit purposes.

h. General Statement Concerning Benefits. Employee will be entitled to all the benefits reflected in the Santa Cruz METRO Management Compensation Policy (Exhibit B), as revised from time to time, except where those terms conflict with the provisions of this Employment Agreement, in which case this Employment Agreement will be controlling.

4. **Paid Time Off**.

a. Vacation. Employee will receive twenty three (23) days of vacation (referred to as "Annual Leave" in Management Compensation Policy) at Commencement Date. At the end of each year, unused vacation will be treated in accordance with the Management Compensation Policy, attached as Exhibit B of this Employment Agreement, as revised from time to time.

b. Sick Leave/Holiday/Administrative Leave. The Employee will be provided sick leave, paid holidays, floating holidays, administrative leave and other leave benefits in accordance with Santa Cruz METRO's Management Compensation Policy attached as Exhibit B of this Employment Agreement, as revised from time to time.

5. **Health and Welfare Benefits**. Employee and his eligible dependents will be entitled to participate in all employee benefit plans applicable to management personnel including, but not limited to, health, dental, life and vision insurance benefits, subject to the terms and conditions of any such employee benefit plan and any applicable Santa Cruz METRO policies, including Exhibit B. All medical, dental and

vision coverage for the Employee and his eligible dependents will be effective on the first day of the month following the date of hire, provided the appropriate enrollment forms are submitted for processing in a timely manner.

Santa Cruz METRO will provide both short and long-term disability benefits as set forth in the Management Compensation Policy (Exhibit B), as revised from time to time. Santa Cruz METRO will also provide life insurance in a policy amount equal to two hundred (200) percent of Employee's gross salary and will impute as taxable income to the Employee the cost of the amount of such coverage that is in excess of \$50,000 in accordance with the Code and applicable tax regulations. Santa Cruz METRO reserves the right to modify its employee benefit plans and policies, including the scope of and/or provider of benefits, in its sole discretion.

6. **Termination of Employment.** Santa Cruz METRO and Employee agree that Employee serves at the pleasure of the Santa Cruz METRO Board of Directors. The employment relationship and all obligations under this Employment Agreement may be terminated at will by either Employee or Santa Cruz METRO at any time, with or without cause. Employee agrees to provide thirty (30) days' advance written notice of his decision to terminate the employment relationship and this Employment Agreement. In such event, Employee agrees to continue to perform his job duties up to and including the date of termination if requested to do so by Santa Cruz METRO. In the event that Employee is terminated for as a result of misconduct, disloyalty, malfeasance or neglect of job duties within the first year of this Employment Agreement, Employee will reimburse Santa Cruz METRO for the relocation expenses described in paragraph 3.e.



7. **Severance Pay.** In the event Santa Cruz METRO terminates the employment relationship and this Employment Agreement for reasons other than misconduct, disloyalty, malfeasance or neglect of job duties, Santa Cruz METRO will compensate Employee, at the level of salary and health and welfare benefits in effect at the time of termination, for the remaining period of this Employment Agreement or for a maximum period of eighteen (18) months, whichever is lesser, and will compensate Employee for all unused leave accruals as provided in the Santa Cruz METRO's Management Compensation Policy (Exhibit B), as revised from time to time. Employee's acceptance of such severance payment will constitute a full and complete waiver of any and all claim(s) that were known or reasonably should have been known by Employee and arising under this Employment Agreement. Employee agrees to sign a document memorializing such waiver in a form acceptable to both parties, which at a minimum shall include a full and complete waiver of any and all known and unknown claims.

8. **Provisions Required by California Government Code 53243 et seq.**

a. In accordance with Government Code Sections 53243, 53243.1 and 53243.2:

(1) In the event Employee is placed on paid leave pending an investigation, Employee will reimburse such pay to Santa Cruz METRO if he is subsequently convicted of a crime involving an abuse of his office or position.

(2) In the event Santa Cruz METRO pays for legal criminal defense for the Employee, he will fully reimburse such funds to Santa Cruz METRO if he is subsequently convicted of a crime involving an abuse of his office or position.

(3) If this contract is terminated, any cash settlement related to the termination that Employee may receive from Santa Cruz METRO must be fully reimbursed to Santa Cruz METRO if he is subsequently convicted of a crime involving an abuse of his office or position. The intent of this Section is to satisfy the requirements in Government Code Sections 53243, 53243.1, and 53243.2 and this Employment Agreement will be interpreted consistent with these statutes. For purposes of this section, "abuse of office or position" will be as defined in Government Code Section 53243.4.

9. **General Provisions.**

a. Notices. Any notices to be given hereunder by either party to the other must be in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid with return receipt requested. Mailed notices will be addressed to the parties at the following addresses:

**SANTA CRUZ METROPOLITAN  
TRANSIT DISTRICT**

**Santa Cruz Metropolitan Transit District  
110 Vernon Street  
Santa Cruz, CA 95060**

**EMPLOYEE**

**Michael Tree  
563 Selby Lane, Unit 2  
Livermore, CA 94551**

Each party may change its address by written notice in accordance with this Paragraph. Notices delivered personally will be deemed communicated as of actual receipt; mailed notices will be deemed communicated as of two (2) days after deposit, by certified mail, return receipt requested with postage prepaid, with the United States Postal Service.

b. Entire Agreement. This Employment Agreement supersedes and replaces any and all other agreements or understandings, whether express, implied, oral or written, between the parties hereto with respect to the employment of Employee by Santa Cruz METRO and contains all the covenants and agreements between the parties with respect to such employment. Each party to this Employment Agreement acknowledges that no representations, inducements, promises or agreements, oral 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 not contained in this Employment Agreement will be valid or binding. This Employment Agreement cannot be modified, altered, amended or changed by any oral statement or conduct but only by a written agreement signed by the Chair of the Santa Cruz METRO Board of Directors and Employee.

c. Partial Invalidity. If any provision of this Employment Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

d. Dispute Resolution. The parties agree to meet informally, as a preliminary step in any dispute that may arise under this Employment Agreement.

e. Waiver. A waiver of any of the terms or conditions of this Employment Agreement will not be construed as a general waiver by Santa Cruz METRO, and Santa Cruz METRO will be free to reinstate any such term or condition, with or without notice to Employee.

f. Assignment. Neither this Employment Agreement nor any of the rights hereunder will be assignable by Employee or by Santa Cruz METRO.

g. Governing Law. This Employment Agreement will be governed by and construed in accordance with the laws of the State of California.

h. Binding Effect. This Employment Agreement will be binding upon, and the benefits therefrom will inure to, the successors, heirs, assigns, donees, and devisees of the parties hereto.

i. Effective Date. This Employment Agreement may be executed by the parties in counterpart and will become effective on the last date of execution.

**IN WITNESS WHEREOF**, the parties hereto have executed this Employment Agreement on the date first written above.

**SANTA CRUZ METROPOLITAN TRANSIT  
DISTRICT**

**MICHAEL TREE**

By: \_\_\_\_\_

\_\_\_\_\_

Its: Board Chair

DATED: \_\_\_\_\_

DATED: \_\_\_\_\_

APPROVED AS TO FORM:

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Attorney

**EXHIBIT A**

**JOB DESCRIPTION—CEO/GM**

**EXHIBIT B**

**MANAGEMENT COMPENSATION POLICY**