

## THIRD AMENDED AND RESTATED EMPLOYMENT AGREEMENT

THIS THIRD AMENDED AND RESTATED EMPLOYMENT AGREEMENT (the "THIRD AMENDMENT") is made by and between **NORTH HARRIS COUNTY REGIONAL WATER AUTHORITY** (the "Authority") and **JIMMIE SCHINDEWOLF, P.E.** ("Employee"), dated March 2, 2015 and effective as of January 1, 2016.

### **RECITALS**

A. The Authority and Employee entered into that certain Employment Agreement dated January 7, 2003 and effective January 7, 2003 for the employment of Employee as General Manager of the Authority, as amended by the Amended and Restated Employment Agreement dated July 8, 2004 and effective July 1, 2004, as amended by the Second Amended and Restated Employment Agreement, dated May 3, 2010 and effective January 1, 2011 (collectively, the "Agreement");

B. The Board of Directors of the Authority wishes to recognize the excellent performance by Employee of the duties and responsibilities of General Manager, including but not limited to, conservation of Authority funds, timely financing of Authority projects, timely design and construction of Authority projects, and maintenance of good public relations;

C. The Board of Directors of the Authority wishes to ensure continuity of service in the position of General Manager over the next several years, and desires to continue the Authority's relationship with Employee; and

D. The Authority and Employee desire to memorialize the terms for the extension of their agreement for the employment and services of Employee as General Manager of the Authority;

NOW, THEREFORE, in consideration of the foregoing, and intending to be legally bound, the Authority and Employee hereby amend and restate the Agreement as follows:

### AGREEMENT

1. **Effective Date.** The Authority and the Employee agree that Employee's continued employment under this Third Amendment shall be effective as of January 1, 2016 (the "Effective Date").

2. **Term of Employment.**

(a) Subject to Section 6 hereof, this Third Amendment shall be effective for five (5) years, beginning January 1, 2016 and ending on December 31, 2020. This Third Amendment shall be automatically renewed for one (1) year terms, until such time as this Third Amendment is terminated or renegotiated.

(b) The parties recognize that the term provided for in subsection (a) above is solely to provide the Authority and Employee with a reference point for assessing their

relationship from time to time, and does not in any way affect Employee's at will employment relationship with the Authority. Nothing contained herein shall be deemed to impair the right of the Authority or Employee to terminate this Third Amendment pursuant to Section 6 hereof.

3. **Scope of Employment.**

(a) Duties. Subject to the limitations imposed upon Employee in this Third Amendment, and to the obligations and limitations imposed upon Employee under applicable law, the Employee shall have full and exclusive management and control of decisions and the day to day affairs of the Authority. As General Manager, Employee shall have full and complete power to do any and all things deemed appropriate, necessary, or advisable in the conduct of the Authority's business and, except as otherwise provided herein or under applicable law, may, without limitation,

(i) obtain permits or other governmental approvals with respect to the construction, development, ownership, operation or disposition of any real property or facility owned by the Authority;

(ii) approve plans and specifications for, and construction or alteration of, any improvements with respect to real property or facilities owned or operated by the Authority;

(iii) manage any such improvements or facilities;

(iv) prosecute, defend or settle any dispute or litigation involving the Authority;

(v) negotiate and execute any contracts and agreements involving the Authority which the General Manager deems necessary or appropriate, and to pay, prepay, modify, renew, extend, or otherwise cause the Authority to perform its obligations with respect to, and otherwise deal with, any such contracts or agreements; provided, however, that all contracts approved by the Board and any contract having an aggregate value exceeding \$10,000 shall be executed by an officer or officers of the Board;

(vi) employ and compensate from Authority funds appropriate managers, employees and agents;

(vii) negotiate and enter into agreements for the lease of office space and furniture, fixtures and equipment;

(viii) obtain and maintain insurance against all risks and hazards reasonably related to the Authority in its business in amounts and with companies determined by the General Manager; and

(ix) do any act which is necessary or incidental to carry out the purposes of the Authority.

The General Manager may execute in the Authority name any and all plats, plans, applications, leases, deeds, bills of sale, contracts, certificates and other documents and papers pertaining to the business of the Authority. Any person dealing with the Authority shall be entitled to presume that any prerequisites to the taking of action by the General Manager have been satisfied, and no person shall be obligated to inquire into the authority of the General Manager to act on behalf of the Authority with respect to any matter.

(b) Full Time. Employee shall work full time for the Authority, devoting his full skill, energy and best efforts to the faithful discharge of his duties as General Manager of the Authority. Employee shall obey the lawful directions of the Board. Employee acknowledges he has a fiduciary duty to the Authority and shall use his best efforts to promote its interests.

Notwithstanding the foregoing, Employee shall be entitled to perform the following as long as that service does not in any way negatively impact Employee's ability to serve as General Manager under this Third Amendment or create a conflict of interest with the interests of the Authority:

(i) Serve as a director on boards of directors of public and private organizations; and

(ii) Continue to own and serve as president of Schindewolf & Associates, Inc.

(c) Representations. Employee represents and warrants that he is under no contractual or other restriction or obligation which will in any way limit or conflict with the scope of duties set forth above on behalf of the Authority and will not enter into any contract or relationship which could in any way limit or conflict with the scope of duties set forth above on behalf of the Authority.

#### 4. Compensation.

(a) Gross Salary. The Authority shall pay Employee a gross base salary in an amount equal to \$309,566.40 per year through the term of this Third Amendment payable upon the regularly established salary payment schedule of the Authority. All payments of salary and other compensation to Employee shall be made after deduction of any taxes which are required to be paid by Employee and withheld by the Authority with respect thereto under applicable federal and state laws.

(b) Expenses. The Authority shall reimburse Employee for reasonable and necessary travel, entertainment and other business expenses, subject to all policies and procedures of the Authority, or that may be promulgated by the Board from time to time, relating thereto. The Authority shall also reimburse Employee for the reasonable and necessary expenses of Employee's spouse when traveling with Employee on Authority-related business, industry association conventions, and seminars attended by Employee on behalf of Authority and licensure-required continuing education.

(c) Use of Vehicle.

(i) To the extent Employee uses his personal vehicle in the performance of his duties for the Authority (as opposed to commuting to and from his residence), the Authority shall reimburse Employee for such use, at the prevailing rate per mile established by the Internal Revenue Service, and subject to compliance with applicable record-keeping requirements, and the policies and procedures of the Authority, or

(ii) At Employee's option, the Authority shall reimburse Employee a flat rate per month for use of his personal vehicle to be mutually agreed upon between Employee and the President of the Authority, which shall be based upon similar rates in the public and private sectors, in which case, Employee shall not be reimbursed mileage for local travel, but shall be reimbursed mileage for out of town travel in accordance with Authority rules for such reimbursement, or

(iii) At Employee's option, the Authority will furnish Employee with a company vehicle, a choice to be mutually agreed upon between Employee and the President of the Authority, and pay the cost of maintenance, repair, operations and insurance on said vehicle. Employee shall keep all records necessary to comply with Internal Revenue Service requirements with respect to any such vehicle.

5. **Benefits.**

(a) General. Employee shall be entitled to participate in all of the employee benefit plans and arrangements, if any, in which employees of the Authority are entitled to participate subject to any requirements for participation in any such plan or arrangement. The Authority shall not make any changes in any such plans or arrangements which would adversely affect the Employee's rights or benefits thereunder, unless such change occurs pursuant to a program applicable to all employees of the Authority and does not result in a proportionately greater reduction in the rights of, or benefits to, the Employee as compared with any other employee of the Authority. The Employee shall be entitled to participate in or receive benefits under any employee benefit plan or arrangement made available by the Authority, if any, in the future to its employees, subject to and on a basis consistent with, the terms, conditions and overall administration of such plan or arrangement.

(b) Holidays. Employee shall be entitled to the paid holidays established annually by the Authority.

(c) Vacation. Employee shall be entitled to a maximum of five (5) weeks of vacation per year. Accrued vacation up to a maximum of five (5) weeks may be carried forward from year to year, but no more than a maximum of 10 weeks of vacation will be recognized as accrued at any time. Any accrued unused vacation in excess of the maximum shall be paid to Employee at the end of each calendar year. Unused vacation shall be paid to Employee upon termination or resignation.

(d) Sick Leave. Employee will accrue 1.25 days of sick leave for each one (1) month of employment to a maximum of 15 days per year. Accrued sick leave up to a maximum of 15 days may be carried forward from year to year, but no more than a maximum of 30 days of accrued sick leave will be recognized as accrued at any time. Any accrued unused sick leave in excess of the maximum shall be paid to Employee at the end of each calendar year. Unused sick leave shall be paid to Employee upon termination or resignation.

(e) Compensable Time. Employee will not accrue compensable time for either regular or overtime work.

(f) Medical Insurance. The Authority shall provide medical, dental, vision, disability and life insurance to the extent provided for all employees of the Authority for the benefit of Employee and his wife, Carrie Schindewolf, or in the alternative, adjust Employee's net salary by the amount of such premiums. The Authority shall also reimburse Employee for an annual complete physical examination of Employee, at a cost not to exceed \$2,000, to the extent not covered by medical insurance provided by the Authority, including, but not limited to, deductibles, co-payments, and co-insurance.

(g) Mobile Telephone Allowance. The Authority will provide Employee a mobile telephone allowance of \$125 per month, which may be increased in the future upon written approval by the President of the Authority.

(h) Professional Licenses and Memberships.

(i) The Authority shall pay annual license fees of Employee for Professional Engineer and Registered Public Land Surveyor licenses, costs of continuing education requirements necessary to maintain licensure as a Professional Engineer and as a Professional Land Surveyor in the State of Texas, and reasonable engineering society memberships, such as the Texas Society of Professional Engineers and National Society of Professional Engineers, and industry association membership dues of Employee.

(ii) The Authority shall pay the membership dues, fees, and assessments for Employee to maintain membership in the Houston Engineering and Scientific Society ("HESS"), not to exceed \$1,000 per year.

(i) Retirement Benefits. The Authority shall continue to provide an executive retirement plan for the general manager position, which plan shall allow a four percent (4%) Employee contribution and an Employer contribution equal to 25% of Employee's gross annual base salary for the entire term of this Third Amendment.

Benefits that shall accrue under the executive retirement plan shall be in addition to any other benefits provided for under this Third Amendment. In the event any contribution will be in excess of the maximum tax exempt contribution permitted by law, such contribution shall be paid into an annuity or other tax-deferred investment vehicle selected by Employee, as permitted by law.

(j) Life Insurance. During the term of this Third Amendment, the Authority shall continue to pay or reimburse Employee for the reasonable cost of a life insurance policy on Employee's life in the amount of \$300,000.

(k) Consultant Fees. The Authority shall reimburse Employee for 50% of the reasonable fees and expenses for legal, tax, accounting, and financial advisory services incurred by Employee with respect to review of this Third Amendment, not to exceed \$3,000.00 cumulatively.

6. **Termination**.

(a) Authority's Right to Terminate. The Authority may terminate this Third Amendment in its sole discretion, with or without cause, at any time, upon written notice of such termination to Employee as set forth in this Section 6.

(b) Termination For Cause. If the Authority terminates this Third Amendment for non-compensable cause, the Authority shall pay Employee all base compensation earned by Employee through the effective date of the termination, on the regularly established salary payment schedule of the Authority, and any benefits accrued through the effective date of termination. For purposes of this Third Amendment, the occurrence of any of the following events shall be considered "non-compensable cause":

(i) the commission of fraud by Employee against any person and final judgment in favor of such person;

(ii) the indictment and conviction of Employee on felony criminal charges or conviction of any crime involving moral turpitude; or

(iii) Employee's misappropriation of funds or property of the Authority for Employee's personal benefit.

(c) Termination Without Cause. If the Authority terminates this Third Amendment without non-compensable cause, the Authority shall provide 60 days' written notice to Employee and shall pay to Employee such salary as has been earned by Employee through the effective date of termination on the regularly established salary payment schedule of the Authority, plus any benefits accrued through the effective date of termination, and, as severance pay, an amount equal to 10 months' base salary and benefits (which period shall not include the 60-day notice period), excluding bonuses, at the time of such termination.

(d) Employee's Right to Terminate. Employee may terminate this Third Amendment at any time by giving the Authority 180 days' written notice of his intent to resign as General Manager, except as mutually agreed otherwise between Employee and the Authority. In the event Employee resigns, the Authority shall pay Employee all salary earned by Employee through the effective date of Employee's resignation on the regularly established payment schedule of the Authority, plus any benefits accrued through the effective date of resignation. In light of the complexity and numerous responsibilities involved with the General Manager position, Employee agrees to remain with the Authority for up to 180 days after a new General Manager begins employment with the Authority in order to insure the orderly transition of the General Manager position.

(e) Cessation of Work. Once termination of employment has occurred under any of the circumstances described above, the Authority may direct Employee to cease work on behalf of the Authority and vacate the premises of the Authority; however, the Authority's obligation to pay Employee's salary through the applicable pay period shall continue.

(f) Death. If Employee dies, this Third Amendment shall automatically terminate and the Authority shall have no further obligation to Employee or his estate, other than the obligations to pay salary earned through the date of death on the regularly established payment schedule of the Authority, plus any benefits accrued through the date of death.

## 7. Confidential Information.

(a) General. The term "Confidential Information" means any information which is proprietary to the Authority, or designated as confidential by the Authority, and not generally known by persons who are not employees of the Authority, which Employee may obtain knowledge of or access to, through or as a result of Employee's employment with the Authority (including information and materials conceived, originated, discovered or developed in whole or in part by Employee at the request or for the benefit of the Authority or while employed by the Authority). "Confidential Information" may be written, verbal, or recorded by electronic, magnetic or other methods, whether or not expressly identified as "Confidential" by the Authority. Confidential information includes, but is not limited to, the following information and materials:

(i) All information about the Authority's actual or prospective suppliers or vendors, including the identity of and information about the personnel who are involved in their decision making processes, and the prices, quantities, terms or conditions of any actual or proposed contracts or agreements with them, or any negotiations therefor;

(ii) All information about any of the Authority's actual or prospective suppliers, purchasers, users or consumers of water or water related services, including the identity of and information about the personnel who are involved in

their decision making processes, and the prices, quantities, terms or conditions of any actual or proposed contracts or agreements with them, or any negotiations therefor; and

(iii) All information relating to the Authority's negotiation and/or marketing of its services, including procedures, methods or techniques for the sale of water or water related services, or the terms and conditions of any use, distribution or acquisition agreement, or any relationship, custom or practice under which the Authority has sold or delivered water or water related services, or purchased or acquired water related services and water rights.

(b) Ownership of Information. Employee acknowledges that all notes, data, forms, reference and training materials, leads, memoranda, computer programs, print outs, disks and the information contained in any computer, and any other records which contain, reflect or describe any Confidential Information, belong exclusively to the Authority. Employee shall promptly deliver such materials and all copies thereof to the Authority on the date the employment of the Employee terminates, regardless of whether such termination occurs upon expiration of the Scheduled Termination Date, or on an earlier or later date or at any other time upon request of the Authority.

(c) Nondisclosure. During his employment with the Authority and thereafter, Employee will not disclose nor use, directly or indirectly, for his own benefit or for the benefit of any other person or entity (except the Authority) any Confidential Information. Employee will not publish, copy, disclose, convey or transfer any Confidential Information to any person or entity, or otherwise utilize any Confidential Information for any purpose, except in the course of his work for the Authority. This obligation shall continue in full force and effect notwithstanding the termination of Employee's employment. Employee will abide by all rules, guidelines, policies and procedures relating to Confidential Information implemented and/or amended from time to time by Authority.

(d) Remedies. Employee acknowledges that any actual or threatened breach of the covenants contained in this Section 7 would cause the Authority irreparable harm and that monetary damages would not provide an adequate remedy to the Authority for any such breach of such covenants. For these reasons, and because of the unique nature of the Confidential Information and the necessity to preserve such Confidential Information in order to protect the Authority's property rights in the event of a breach or threatened breach of any of the provisions herein, the Authority, in addition to any other remedies available to it at law or in equity, shall be entitled to immediate injunctive relief against Employee to enforce the provisions of this Section 7 and shall be entitled to recover from Employee its reasonable attorney's fees and other expenses incurred in connection with such proceedings.

8. Legal Representation and Indemnification. To the fullest extent permitted by law, the Authority will provide legal representation for Employee for any civil or criminal action involving Employee in the discharge of his duties for the Authority and shall pay all reasonable expenses including, but not limited to, judgments, penalties, including excise and similar taxes,



finances, settlements, and other reasonable expenses. In the event Employee is required to expend his own funds in such matters, to the fullest extent permitted by applicable law, the Authority (but not any member of the Board of Directors) shall promptly indemnify and save harmless Employee from, and reimburse Employee for, all payments reasonably and properly made and personal liabilities reasonably and properly incurred pursuant to the provisions of this Third Amendment in the conduct of Authority business or for the preservation of its business or property, as well as all judgments, penalties, including excise and similar taxes, fines, settlements and reasonable attorneys' fees and expenses, if Employee was, is or is threatened to be a named defendant or respondent in a proceeding because Employee is or was the General Manager of the Authority. These indemnification rights are in addition to any other rights the Employee may have, including, but not limited to, rights against third parties.

9. **General Provisions.**

(a) Survival. The provisions of this Third Amendment shall survive the termination of Employee's employment hereunder in accordance with their terms.

(b) Notices. Except where certified or registered mail notice is required by applicable law or otherwise herein, any notice to any party required or permitted hereunder shall be deemed and considered to have been given and received upon the deposit thereof, in writing, in the United States mails, duly stamped and addressed to such party at the address first shown below; but actual notice, however given or received, shall always be effective. Such notice shall be deemed effective on the third (3<sup>rd</sup>) business day following deposit of such mail into the United States Mail service.

If to Authority:

President, Board of Directors  
North Harris County Regional Water Authority  
3648 Cypress Creek Parkway, Suite 110  
Houston, Texas 77068

with a copy to:

Ms. Robin S. Bobbitt  
Radcliffe Bobbitt Adams Polley PLLC  
1001 McKinney, Suite 1000  
Houston, Texas 77002-6424  
(713) 237-1221  
Fax (713) 237-1313  
Email: [rbobbitt@rbaplaw.com](mailto:rbobbitt@rbaplaw.com)

If to Employee:

Mr. Jimmie Schindewolf, P.E.  
4034 Spring-Cypress Road  
Spring, Texas 77388  
(281) 353-9702

(c) Invalidity. Whenever possible, each provision of this Third Amendment will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Third Amendment is held to be invalid, illegal, or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other provision. This Third Amendment will be reformed, construed, and enforced in any such jurisdiction as if such invalid, illegal, or unenforceable provisions had never been contained herein, and a new, enforceable provision shall be substituted which accomplishes the intent of the invalid, illegal, or unenforceable provision as nearly as practicable.

(d) Entirety of Third Amendment. This document supersedes all prior agreements between the parties, written or oral, and embodies the complete agreement and understanding among the parties, written or oral, which may have related to the subject matter hereof in any way, and shall not be amended orally, but only by the mutual agreement of the parties hereto in writing, specifically referring to this Third Amendment.

(e) Severability. The provisions of this Third Amendment are severable, and if any provision or part of this Third Amendment or the application thereof to any person or circumstance shall ever be held by any court of competent jurisdiction to be invalid or unconstitutional for any reason, the remainder of this Third Amendment and the application of such provision or part of this Third Amendment to other persons or circumstances shall not be affected thereby.

(f) Counterparts. This Third Amendment may be executed in separate counterparts, any one of which need not contain signatures of more than one party, but all of which taken together shall constitute the same agreement.

(g) Assignability. Except as expressly indicated herein, this Third Amendment is intended to bind and inure to the benefit of, and be enforceable by, the Authority and Employee and their respective heirs, legal representatives, successors, and permitted assigns. Neither this Third Amendment nor any of the duties or obligations hereunder shall be assignable by Employee or the Authority without the prior written consent of the other party.


(h) Governing/Arbitration Law. This Third Amendment and the legal relations created between the parties hereto shall be governed by and construed under and in accordance with the laws of the State of Texas, excluding the conflict of law provisions thereof. Any dispute or controversy arising under or in connection with this Third Amendment shall be settled exclusively by arbitration in Houston, Texas, in

accordance with the rules of the American Arbitration Association then in effect. Judgment may be entered on the arbitrator's award in any court having jurisdiction; provided, however, that the Authority shall be entitled to seek a restraining order or injunction in any court of competent jurisdiction to prevent any violation, threatened violation or continued violation of this Third Amendment and the Employee hereby consents that such restraining order or injunction may be granted without the necessity of the Authority posting any bond.

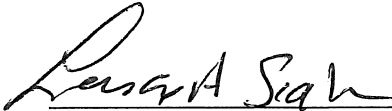
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APPROVED BY THE BOARD OF DIRECTORS OF THE AUTHORITY on March 2, 2015, but effective for all purposes as of the Effective Date set forth above.

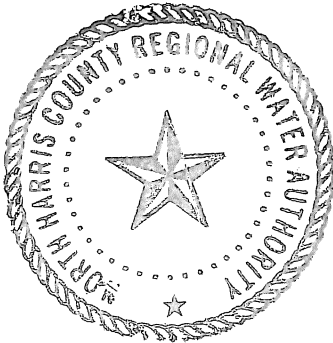
**NORTH HARRIS COUNTY REGIONAL  
WATER AUTHORITY**

By:   
Name: Alan J. Reed  
Title: President

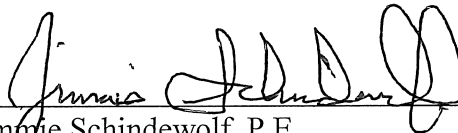
ATTEST:

  
Secretary

(AUTHORITY SEAL)



**EMPLOYEE**

  
Jimmie Schindewolf, P.E.