

## MEMORANDUM

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**TO:** Board of Directors

**FROM:** Legal Counsel

**RE:** Approval of Third Amendment To General Manager  
Employment Agreement

**DATE:** June 27, 2022

**Summary:**

The Board previously entered into an Employment Agreement with the General Manager/Chief Hydrogeologist, Lance Eckhart, dated July 13, 2020.

The Board and General Manager then entered into a First Amendment dated October 5, 2020. The First Amendment provided for the General Manager to use an Agency-owned vehicle.

The Board and General Manager then entered into a Second Amendment dated September 13, 2021. The Second Amendment provided for an increase in compensation to an annual rate of \$207,900.

An Ad Hoc Committee of the Board, and then the full Board, recently engaged in a work performance evaluation of the General Manager. The result of those meetings was to put forward certain items for potential inclusion in a Third Amendment at the May 23, 2022 Board meeting. At that Board meeting, the item was pulled in order to provide the Ad Hoc Committee, and then the full Board, with the opportunity to further consider the draft Third Amendment in the event the Board wished to make any further revisions.

The Ad Hoc Committee recently met with the General Manager. The full Board then conducted a closed session on June 13, 2022. The result of those meetings was to put forward a new draft of a Third Amendment for consideration by the Board in open session at this June 27, 2022 Board meeting.

**Recommendation:**

It is recommended that the Board approve entering into a Third Amendment to the Employment Agreement with the General Manager. A draft of the Third Amendment is enclosed.

**Detailed Report:**

If the Board elects to enter into a Third Amendment, then pursuant to requirements of Government Code Section 54953(c)(3), prior to taking action, a summary of the recommendation for final action must be made as follows. The Third Amendment would provide for:

(1) a 17% increase in compensation which would include a COLA for FY 2022-23 (10%) and a merit increase (7%) and which would result in an annual rate of compensation of \$244,698.30. The base salary would automatically be adjusted annually based on CPI ;

(2) an increase in Personal Time Off (PTO) days per year from 5 to 10 with a cash-out option. Beginning July 1, 2024, annual vacation accrual would increase from 120 to 160 hours;

(3) the term of the Agreement would be extended through June 30, 2028;

(4) the General Manager's employment would not be terminated 90 days prior to, or 90 days following, a general election in which members of the Board stand for election;

(5) an increase in the amount of severance pay from 6 months to 9 months; and

(6) along with the possibility of a merit increase, the General Manager would be eligible for an incentive award not to exceed 10% of the total annual base salary based on the results of an annual performance review and achieving specific goals.

**Fiscal Impact:**

The Agreement and Amendments would provide for payment of compensation, benefits and reimbursement of expenses.

## **SAN GORGONIO PASS WATER AGENCY**

### **THIRD AMENDMENT EMPLOYMENT AGREEMENT – GENERAL MANAGER/CHIEF HYDROGEOLOGIST**

This Third Amendment to Employment Agreement (“Third Amendment”) between the San Gorgonio Pass Water Agency (“Agency”) and Lance Eckhart (“Employee”) is entered into this 1st day of July 2022. Except as modified in this Third Amendment, the Employment Agreement, dated as of July 13, 2020, between Agency and Employee shall remain in full force and effect. The parties to this Third Amendment agree to the following changes:

1. Section 2(A) relating to “TERM AND RENEWAL” is hereby stricken and replaced with the following:

#### **SECTION 2. TERM AND RENEWAL**

A. This Agreement shall be effective as of July 1, 2022 (the “Anniversary Date”). The Term of this Agreement shall be for six (6) years, through June 30, 2028, unless sooner terminated or extended by the parties as set forth in this Agreement.

2. Section 3(C) relating to “TERMINATION AND SEVERANCE” is hereby stricken and replaced with the following:

#### **SECTION 3. TERMINATION AND SEVERANCE**

C. The Employee serves at the will and pleasure of the Board. At any time during the term of this Agreement or any extension thereof, the Board reserves the right to terminate the employment of the Employee and determine his last day of employment upon the vote of four or more Board members at a duly called and noticed Board meeting. The Agency agrees, however, that Employee’s employment shall not be terminated ninety (90) days prior to or ninety (90) days following a general election in which members of the Board of Directors stand for an election.

3. Section 3(C)(2) relating to “TERMINATION AND SEVERANCE” is hereby stricken and replaced with the following:

#### **SECTION 3. TERMINATION AND SEVERANCE**

2. In the event Agency terminates Employee’s employment for a reason other than those set forth in Section 3(C)(1), Employee shall be entitled to the following severance in accordance with the terms of California Government Code sections 53260, *et seq.*: An amount equal to nine (9) months of the Employee’s then base salary or the remainder of the term of this Agreement, whichever is less. Employee shall be entitled to all unused vacation, paid-time-off days, sick time and floating holidays and Employer shall continue health benefits for six (6) months upon termination. This severance is contingent upon Employee irrevocably executing a release of all claims as drafted and submitted to Employee by Agency legal counsel and including a waiver pursuant to Civil Code Section 1542. Contributions to the Public Employees’ Retirement System (“PERS”) for such severance pay shall be made in accordance with Agency’s PERS contract and

the PERS law and regulations. The Employee shall be entitled to this severance pay either in a lump sum or, if he so elects, in a reasonable number of installments.

4. Section 4(A) relating to “COMPENSATION” is hereby stricken and replaced with the following:

**SECTION 4. COMPENSATION**

A. Agency agrees to pay Employee a cost-of-living-adjustment of ten (10) percent and a seven (7) percent merit increase for services rendered, at a rate of Two Hundred and Forty-Four Thousand Six Hundred and Ninety-Eight Dollars and Thirty Cents (\$244,698.30) annually pursuant to the procedures regularly established and as they may be amended by the Agency in its sole discretion. Said compensation amount shall begin on the effective date of this Third Amendment. Employee shall be eligible for a discretionary annual incentive award not to exceed ten (10) percent of Employee’s total annual base salary based on the results of Employee’s annual performance review. The incentive may be based, in part, on the accomplishment of specific goals as set by the Board and that are achieved by Employee. Employee may receive annual increases in salary as may be determined by the Board in its sole discretion and the Board shall have the right to grant merit increases as the Board deems appropriate, at its discretion. Any agreed salary increase must be expressly memorialized in a subsequent written and executed Amendment to this Agreement. All compensation and comparable payments to be paid to Employee shall be less withholdings required by law.

5. Section 4(B) relating to “COMPENSATION” is hereby stricken and replaced with the following:

**SECTION 4. COMPENSATION**

B. For the duration of the contract, Employee’s base salary will be automatically adjusted annually based on the March to March Bureau of Labor Statistics Consumer Price Index change for the Riverside-San Bernardino-Ontario statistical area.

6. Section 4(E) relating to “BENEFITS – VACATION” is hereby stricken and replaced with the following:

**SECTION 4. BENEFITS**

E. Employee shall accrue One Hundred and Twenty (120) hours of vacation time annually. Beginning July 1, 2024, Employee’s vacation accrual shall increase to accrue One Hundred and Sixty (160) hours of vacation time. Such vacation may be carried over, if not used, and may accumulate to a cap of Two Hundred and Forty (240) hours. Once the accrual cap is reached, Employee will not accrue additional vacation hours until such time as he reduces his accrued hours below the cap. The Employee’s vacations shall be scheduled in coordination with the Board. The Board encourages employees to take regular vacation time, but recognizes that job demands may not make this possible for top management employees. In recognition of a potential inability to take vacation, Employee may cash out up to Sixty (60) hours of vacation per year. Any

additional increase in vacation hours is subject to approval by the Board in its discretion. Employee shall be entitled to participate in vacation buyback consistent with Agency policy.

7. Section 4(G) relating to “BENEFITS – PERSONAL TIME OFF” is hereby stricken and replaced with the following:

**SECTION 4. BENEFITS**

G. Employee shall be granted ten (10) Personal Time Off (“PTO”) days per year. As per Agency policy, PTO days shall not accrue. Employee shall be entitled to cash-out PTO days.

8. Section 5(A) relating to “PERFORMANCE EVALUATION” is hereby stricken and replaced with the following:

**SECTION 5. PERFORMANCE EVALUATION**

A. The Board shall review and evaluate the performance of Employee in writing on an annual basis at or around the second Board meeting of every June (Employee’s anniversary month), or as soon thereafter as practicable. The evaluation will also set forth mutually defined goals to be achieved by Employee in the subsequent year. Employee will be provided an adequate opportunity to discuss his evaluation with the Board at the Board meeting. Further, during Employee’s annual review, Employee and the Board will meet and confer to discuss what portion of any merit increases and/or incentive award may be applied to Employee’s base salary. Employee shall be eligible, if warranted in the Board’s sole discretion, to receive a salary adjustment at the conclusion of such evaluation. Any agreed salary increase must be expressly memorialized in a subsequent written and executed Amendment to this Agreement. Failure of the Board to conduct a performance evaluation shall not prohibit the Board from terminating this Agreement in accordance with Section 3 of this Agreement.

**[SIGNATURE PAGE TO FOLLOW]**

The Agency and Employee have duly executed this Third Amendment as of the date first written above. This Amendment is effective as of the date first written above.

**SAN GORGONIO PASS WATER AGENCY**

**EMPLOYEE**

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

LARRY SMITH  
President, Board of Directors

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

LANCE ECKHART  
GM/Chief Hydrogeologist