

**CITY OF BIG BEAR LAKE,
DEPARTMENT OF WATER AND POWER
GENERAL MANAGER
EMPLOYMENT AGREEMENT**

This EMPLOYMENT AGREEMENT (herein "Agreement") is made and entered into as of the 18th day of December 2018, by and between the CITY OF BIG BEAR LAKE, DEPARTMENT OF WATER AND POWER (hereinafter the "Employer") and REGINALD A. LAMSON (hereinafter "Employee").

RECITALS

WHEREAS, Employer wishes to engage the services of Employee as its General Manager and to induce the Employee to remain in such position on the terms and conditions set forth in this Agreement;

WHEREAS, Employee is familiar with the position's legal requirements, industry standards and responsibilities and duties set forth in the job description, attached as Exhibit "A" hereto and incorporated herein; and

WHEREAS, Employee represents and warrants that he has the skill and ability to serve in such position and wished to accept such employment on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants herein contained, the parties hereto agree as follows:

1. Employment

Employer hereby agrees to employ Employee, and Employee agrees and does accept employment, upon the terms and conditions set forth herein.

2. Duties and Obligations of Employee

- A. Employee hereby agrees to perform the functions and duties of General Manager as set forth in Employer Resolutions, Ordinances, Rules, Regulations, Policies, and Job Description, and to perform such other duties and functions as the DWP Board may from time to time assign. These additional duties include, but are not limited to directing the activities of the Department of Water and Power and General Manager duties as described in the Job Description. Employee further agrees to perform all such functions and duties on a full time basis, to the best of his ability, and in an efficient and competent manner.
- B. Employee will focus his professional time, ability, and attention to Employer business during the term of this Agreement. Employee shall not engage in any other business duties or pursuits whatsoever or, directly or indirectly, render any services of a business, commercial, or professional nature to any other person or organization,

whether for compensation or otherwise, without the prior consent of the DWP Board except that:

1. The expenditure of reasonable amounts of time not in conflict with Employer's needs and interests, for educational, charitable, community, and professional activities, shall not be deemed a breach of this Agreement and shall not require prior consent.
 2. This Agreement shall not be interpreted to prohibit Employee from making passive personal investments or conducting private business affairs if those activities do not materially interfere with the services required under this Agreement.
- C. All data, studies, reports, and other documents prepared by Employee while performing his duties during the term of this Agreement shall be furnished to and become the property of Employer, without restriction or limitation on their use.
- D. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Employee in connection with the performance of this Agreement shall be held confidential by Employee unless acting within the scope of his duties as Employee. Such materials shall not, without the prior written consent of the Employer, be used by the Employee for any purposes other than the performance of his duties. Nor shall such materials be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by law.

3. Office Hours

Employee shall report to Employer's offices for work during normal business hours in accordance with established work schedules and as such other times as may be necessary to discharge his duties, except when away on approved business for the Employer, as otherwise excused by use of approved leave, or during Employer-granted holidays. However, Employee agrees and understands that he will report to work when necessary to Employer operations, regardless of regularly scheduled hours, scheduled leave, or holiday, to the extent such attendance is reasonably possible.

4. Salary

In consideration of the regular and additional duties to be performed by Employee under Section 2.A. of this Agreement, Employee's salary shall be \$199,971.62 per year for the initial twelve (12) months of this agreement, payable in installments at the same time as other employees of Employer are paid, pursuant to the procedures regularly established, and as they may be amended by Employer. For each subsequent year of the term of this agreement, Employer may consider an additional salary adjustment based on Employee's performance on the goals and objectives for the preceding twelve (12) months.

5. Benefits

Unless otherwise provided herein, Employee shall receive the fringe benefit package as set forth below:

- Vacation at the accrual rate shall be 160 hours per year.
- Cash out of Vacation Leave up to a maximum of eighty (80) hours per year with 40 hours of vacation use per year.
- Administrative Leave of fifty-six (56) hours per year.
- Cash out of Administrative Leave up to a maximum of forty (40) hours per year.
- Clothing Allowance of one hundred dollars (\$100) per year for DWP insignia clothing.
- Retirement through San Bernardino County Employees' Retirement Association (SBCERA). Employee shall contribute 6% to the retirement plan and the DWP shall assume the employee Survivor Benefit contribution amount.
- Paid holidays and personal leave days shall be the same days granted to the management employees for that year.
- 88 hours Sick Leave per year.
- Cafeteria Plan – During the term of this agreement, Employer shall provide a Cafeteria Allowance consisting of amount equal to the HMO Medical, Vision, Dental, and Life Insurance Plan monthly premium for Employee and his applicable familial situation (single, married, dependent children, etc.) The benefits shall reflect the employee's needs at any given time. Employee will not receive any excess funds from the cafeteria plan as any form of compensation.
- DWP will match, dollar for dollar, any employee contributions into the DWP's 457 plan up to a maximum of 2% of the employee's annual salary. (Example: as agreed, the current annual salary is \$199,971.62; the maximum the DWP will contribute is \$3,999.43 per year for the current year. If the employee contributes \$2,000, the DWP contributes \$2,000 for the current year).

The parties agree that Employee's benefits are intended to be governed by this Agreement. However, to the extent any grant is vague; it may be interpreted consistently with legal requirements and Employers policies and procedures as applicable to similarly situated management employees or as required by state or federal law. Further, to the extent or not expressly or impliedly superseded by this Agreement, Employee may be eligible for other ancillary benefits pursuant to Employer policy as provided to other similarly situated management employees, or required by state or federal law. However, any ancillary benefit valued at more than \$1,000 must be brought before the Board for approval prior to implementation, and the Board may, at its discretion, decline to provide such ancillary benefits.

6. Term

Unless the Employee is terminated sooner pursuant to Section 7, the Employer hereby agrees and does employ Employee for a term of thirty-six (36) months commencing on January 1, 2019, and continuing through December 31, 2021. This Agreement shall automatically be extended for additional one (1) year terms effective January 1, 2022 unless the Employer

provides written notice to Employee no later than October 30th of each year this Agreement is in effect or on the date of the Employee's annual evaluation, whichever is sooner, that the Agreement will not be renewed for an additional year. Unless otherwise provided for by a subsequent written agreement between the Parties, the terms and conditions of this Agreement shall apply to any extended term of this Agreement. Extension of the Agreement by the Board's failure to provide written notice of non-renewal shall not prohibit the Board from terminating this Agreement in accordance with Section 7 of this Agreement. Any termination of this Agreement other than the Employee's voluntary resignation or the Board's decision not to extend the Agreement shall entitle the Employee to the benefits set forth in Section 7 below, unless the Employee is terminated for any of the reasons set forth in Section 7(A) or 7(B) of this Agreement.

7. Termination of Agreement and Severance Pay

- A. This Agreement shall automatically terminate upon the Employee's death, retirement, permanent incapacity, or unforeseen extended unavailability defined at six months or more.
- B. It is expressly understood that Employee, in his capacity as General Manager, is a contracted employee serving at the pleasure of the Board, subject to termination pursuant to the terms of this Agreement, and with no right to any hearing or appeal, including any so-called *Skelly* conference, other than the rights expressly provided in this Agreement.

In the event that this Agreement is terminated prior to its expiration due to the Employee engaging in conduct which constitutes fraud, embezzlement (no pending criminal charges need to be in effect for termination due to fraud or embezzlement, but merely the Board has a good-faith belief based on a good-faith investigation), insubordination to the Board, dishonesty, negligence in the performance of his duties, or other conduct that is detrimental to the Employer's interest, no further compensation or benefits shall be made to the Employee upon such termination.

If the Employee is terminated for one of the foregoing reasons, the Employee will be presented with written notice of the basis for such termination. Upon receipt of written notice, Employee may, within five (5) business days, request a hearing before the City Council. The issue at the hearing shall be limited solely to whether there is sufficient evidence to support a finding of termination for one of the aforementioned reasons such that the Employee would not be entitled to advance notice and/or compensation as provided in Section 7(C) of this Agreement. Under no circumstances shall the Employee be entitled to reinstatement as a result of such hearing.

The Employer may discipline, demote, or dismiss the Employee without cause notwithstanding anything to the contrary contained in or arising from any statements, policies, or practices of Employer relating to the employment, discipline, or termination of its employees.

- C. Upon termination other than the Employee's voluntary resignation or for one of the reasons set forth in Section 7(A) or 7(B), the Employee shall be entitled to severance pay in a lump sum or, if he so elects, in a reasonable number of installments. "Severance pay" shall be an amount equal to the Employee's then current monthly salary for six (6) months or, pursuant to California Government Code Section 53260, an amount equal to the remainder of the Employee's term, whichever is less.
- D. The provisions of California Government Code Sections 53243 to 53243.4, as those sections now or hereafter exist are hereby incorporated by reference into this Agreement. Thus, if Employee is convicted of a crime involving an abuse of his office or position, whether before or after release from employment, Employee shall fully reimburse the Employer for any severance pay, paid leave salary disbursed pending an investigation related to the crime, or legal criminal defense funds relevant to the crime.
- E. At any time, the Employee may resign from his employment for any reason, with or without cause, by providing the Board with sixty (60) days advance written notice. The Board shall have the option, in its sole discretion, to make Employee's resignation effective at any time prior to the end of such notice period, provided Employer pays the Employee all compensation due and owing through the last day actually worked.
- F. All benefits to which the Employee is entitled shall cease upon Employee's termination unless explicitly continued under either this Agreement, under any specific written policy or benefit plan of the Employer, or unless required by law.
- G. Employee agrees that all property, including, without limitation, all equipment, tangible proprietary information, documents, records, notes, contracts, and computer generated materials furnished to or prepared by the Employee incident to his employment belongs to the Employer and shall be returned promptly to the Employer upon termination of Employee's employment. Employee's obligations under this Section 7(G) shall survive the expiration of this Agreement.

8. Performance Review

The DWP Board shall conduct an annual performance review of employee on or before November 30th of each year during this Agreement, including a salary and benefit review discussion.

9. Action by Employer

All actions required or permitted to be taken under this Agreement by the Employer, including, without limitation, exercise of discretion, consents, waivers, and amendments to this Agreement, shall be made and authorized only by the DWP Board, City Council, or a designated representative specifically authorized in writing to fulfill these obligations under this Agreement.

10. Notices

Any notice or other communication under this Agreement must be in writing and shall be effective upon delivery by hand, upon email transmission, or three (3) business days after deposit in the United States mail, postage prepaid, certified or registered, and addressed to Employer or Employee at the addressed or email below. Employee shall be obligated to notify Employer in writing of any change in his address. Notice of change of address shall be effective only when done in accordance with this Section.

Employer's Notice Address:

Don Smith, Chair of the Board
City of Big Bear Lake
Department of Water and Power
PO Box 1929
41972 Garstin Road
Big Bear Lake, CA 92315
Email: campsmitty1@gmail.com

Employee's Notice Address:

Reginald A. Lamson
PO Box 6635
Big Bear Lake, CA 92315
Email: rlamson@bbldwp.com

11. Integration

This Agreement is intended to be final, complete, and an exclusive statement of the terms of Employee's employment by Employer. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of Employee, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies, or procedures of Employer, apply to Employee and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

12. Amendments

This Agreement may not be amended or modified without the prior written consent, signed by both parties. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

13. Assignment

Neither this Agreement, nor any aright, privilege, nor shall obligation of Employee hereunder be assigned or transferred by him without the prior written consent of the Employer. Any attempt at assignment or transfer in violation of this provision shall, at the option of the

Employer, be null and void and may be considered a material breach of this Agreement.

14. Severability

If a court or arbitrator holds any provision of this Agreement to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

15. Waiver

A waiver of any term of condition of this Agreement shall not be construed as a general waiver by either party to this Agreement, and either party shall be free to reinstate any such term or condition, with or without notice, to the other.

16. Attorney's Fees

In any legal action, arbitration, or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

17. Governing Law

This Agreement shall be governed by and construed in accordance with the law of the State of California. Venue shall be within the San Bernardino County Superior Court.

18. Interpretation

This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit or against the party responsible for any particular language in this Agreement. Captions are used for reference purposes only and should be ignored in the interpretation of the Agreement. Furthermore, no presumption for or against the validity or as to any interpretation hereof, based upon the identity of the drafter shall be applicable in interpreting or enforcing this Agreement.

19. Conflict of Interest

The Employee agrees that he will abide with all applicable local, State and Federal rules on conflicts of interest and receipt of gifts, including, without limitation, those rules found in the California Fair Political Practices Act and related regulations and those found in Government Code Sections 1090 et seq.

20. Employee Acknowledgement

Employee acknowledges that he has had the opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily and based on his judgment and not on any representations or promises other than those contained in this Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement on the 18th day of December, 2018.

EMPLOYER:

CITY OF BIG BEAR LAKE,
DEPARTMENT OF WATER AND POWER

By: 
V. Don Smith, Chairman

EMPLOYEE:

REGINALD A. LAMSON

By: 