

**GOLETA WEST SANITARY DISTRICT**  
**Special Personnel Committee Meeting**  
**March 7, 2022**  
**3:30 P.M.**

In response to the spread of the COVID-19 virus, Governor Newsom declared a state of emergency which directly impacts the ability of board members and members of the public to meet safely in person. To help minimize the potential spread of the COVID-19 virus, the Goleta West Sanitary District has decided hold this public meeting telephonically pursuant the requirements of Government Code section 54953(e) (as amended by AB 361). Members of the public are invited to attend and participate in the Goleta West Sanitary District Board Meeting in one of the following ways:

**Join Zoom Meeting:**

<https://us02web.zoom.us/j/9609647119>

Meeting ID: 960 964 7119

Dial by your location

+1 669 900 6833 US (San Jose)  
+1 253 215 8782 US (Tacoma)  
+1 346 248 7799 US (Houston)  
+1 929 205 6099 US (New York)  
+1 301 715 8592 US (Washington DC)  
+1 312 626 6799 US (Chicago)  
877 853 5257 US Toll-free  
888 475 4499 US Toll-free

Please contact the District office by phone (805-968-2617) or email ([info@goletawest.org](mailto:info@goletawest.org)) with any questions.

**Roll Call:                   Members: Director Bearman, Director Turenchalk**

**Questions/Comments from the public on any item not on the agenda**

**Call to Order:**

**Business:**

- 1. Professional Services Agreement for General Manager/Superintendent with Brian McCarthy**

**Adjournment:**

# GOLETA WEST SANITARY DISTRICT MEMORANDUM

**Date: March 4, 2022**

**To: Personnel Committee**

**From: Brian McCarthy  
Assistant General Manager**

**Subject: Employment Agreement for General Manager/Superintendent**

At the Regular Board meeting on December 7, 2021 the Board approved an Employment Agreement for Assistant Manager between GWSD and Brian McCarthy. This Employment Agreement was extended at the Board's March 1, 2022 meeting. The intent was to enter into a new agreement with Brian McCarthy for General Manager/Superintendent once this existing agreement term was complete.

Attached are the following for reference:

Existing agreement between Brian McCarthy and GWSD  
Existing agreement between Mark Nation and GWSD

**AGREEMENT FOR PROFESSIONAL SERVICES  
ASSISTANT GENERAL MANAGER**

This Agreement is entered into as of the 7th day of December, 2021, by and between the **Goleta West Sanitary District** ("District") and **Brian McCarthy** ("Employee") at Santa Barbara, California, with reference to the following facts:

- A. Employee currently serves as Chief Inspector of the District.
- B. The District wishes to appoint Employee to serve as Assistant General Manager on the terms and conditions stated below.

NOW, THEREFORE, in consideration of the above recitals and of the mutual promises and conditions of this Agreement, **IT IS AGREED** as follows:

1. **EMPLOYMENT.** District hereby appoints the Employee to serve as Assistant General Manager in addition to his current responsibilities as assigned to him by the General Manager on the terms and conditions stated below, and the Employee hereby accepts that appointment, effective December 1, 2021, on those terms and conditions.<sup>1</sup> This Agreement shall be applicable only to Employee's appointment as Assistant General Manager, and shall not govern his duties and employment as Chief Inspector.

2. **SCOPE OF DUTIES AND SERVICES.** Under the terms and conditions of this Agreement, Employee shall personally provide all of the services and duties ordinarily performed by an Assistant General Manager for the District under the general direction and control of the General Manager, in addition to Employee's duties as Chief Inspector. As an Assistant General Manager, Employee shall assist the General Manager with the operation and management of the District, including the supervision and control of all of District's property, activities, personnel, business and operations, subject to the budgetary guidelines and directives of the Board of Directors, and for otherwise carrying out the policies and directives set by the Board of Directors.

3. **TERM; TERMINATION.** The term of this Agreement shall begin as of December 1, 2021, and shall continue for a three (3) month period unless otherwise terminated as provided in this Section and in Section 11 below.

a. **Termination by District.** Notwithstanding the foregoing, the Board of Directors retains the discretion to terminate Employee's appointment as Assistant General

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<sup>1</sup> Employee currently fulfills the role of the District's Chief Inspector. However, the District recently authorized a reorganization which revised the job description for several types of employees, added a new position, and retired the Chief Inspector position. This change will go into effect on December 1, 2021. For a description of the Chief Inspector's job duties, please refer to Appendices A and B to the District's Personnel Policy in effect prior to December 1, 2021.

Manager without cause upon thirty (30) days prior written notice or, in the Board of Director's sole discretion, payment of thirty (30) days' pay in lieu of notice.

b. **Termination by Employee.** Employee shall have the right to resign from his appointment as Assistant General Manager at any time, provided he gives the District a minimum of thirty (30) days advance written notice. During the thirty (30) day period subsequent to said written notice of resignation, Employee shall continue to discharge his duties as Assistant General Manager to the best of his ability, unless District opts, in its sole discretion, to restrict Employee to performance of the duties of the Chief Inspector or to place Employee on paid leave during all or any portion of said thirty (30) day period. In addition, Employee shall be considered to have voluntarily resigned his employment as Assistant General Manager of the District effective immediately if he fails to return from vacation or from an approved leave of absence or fails to report to work without notice to the District for three (3) consecutive days. If Employee voluntarily resigns from his employment as Assistant General Manager, he shall not be entitled to any severance pay or benefits.

4. **NO IMPACT ON DUTIES AS CHIEF INSPECTOR.** Employee shall continue to perform his duties as Chief Inspector, notwithstanding his appointment as Assistant General Manager.<sup>2</sup>

5. **COMPENSATION.** For the services to be provided by Employee serving as Assistant General Manager pursuant to this Agreement, Employee shall receive the following compensation:

a. **Additional Salary.** In addition to the salary Employee receives as Chief Inspector, Employee shall be paid an additional annual salary of \$4,788 ( a move to GWSD salary range 228.5), which salary may be adjusted by the Board of Directors in its sole and absolute discretion. Employee's additional salary pursuant to this Agreement shall be payable at the same time as other management employees of the District and in accordance with established District procedures.

b. **Benefits.** Except as otherwise provided herein, all provisions of the Personnel Policies/Employee Handbook and other rules and regulations of the District relating to vacation, sick leave, retirement, pension system contributions, holidays, and other fringe benefits and working conditions as they now exist or hereafter may be amended, shall also apply to Employee's service as Assistant General Manager in the same manner as they apply to other employees of the District. In the event of a conflict between this Agreement and such rules and regulations of the District, the terms of this Agreement shall control.

6. **VEHICLE USE.** District shall make available to Employee a District-owned vehicle for his use in connection with his responsibilities as Assistant General Manager. District

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<sup>2</sup> For a description of the Chief Inspector's job duties, please refer to Appendices A and B to the District's Personnel Policy in effect prior to December 1, 2021. *See also* FN 1.

shall pay for the cost of maintenance, repair and gasoline, and provide insurance for this vehicle. Employee shall operate the District-owned vehicle in a safe manner, and shall maintain a valid California automobile driver's license during the term of this Agreement.

7. **REIMBURSABLE EXPENSES.** Expenses incurred by Employee in the performance of his duties as Assistant General Manager under the terms of this Agreement shall be reimbursed to Employee by the District, but these shall be limited to those reasonable and necessary for the performance of Employee's duties under this Agreement, and shall be submitted for approval and reimbursement or payment upon receipt of duly executed expense of petty cash vouchers, receipts, statements or personal affidavits pursuant to District policy.

8. **CONFLICT OF INTEREST.** Employee represents and warrants to District that he presently has no interest, and covenants that he will not acquire any interests, direct or indirect, financial or otherwise, which would conflict in any manner or interfere with the performance of services required to be performed under this Agreement.

9. **GENERAL PROVISIONS.**

a. **Notices.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if personally served or on the second day after mailing if mailed by first-class mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

To District: President  
Goleta West Sanitary District  
P.O. Box 4  
Goleta, CA 93116-0004

To Employee: Brian McCarthy  
3405 Madrona Drive  
Santa Barbara, CA 93105

Any party may change their address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

b. **Waiver.** The waiver of any breach of any provision hereunder by either party to this Agreement shall not be deemed to a waiver of any other provision or subsequent breach hereunder, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

c. **Construction of Terms.** The language of all parts of this Agreement shall be construed according to their plain meaning and shall not be construed for or against

either party. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment or exhibits hereto.

d. **Severability.** If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be unenforceable, void or invalid, in whole or in part, for any reason, the remainder of the Agreement shall remain in full force and effect. In the event of such entire or partial invalidity, the parties hereto agree to enter into supplemental or other agreements to effectuate the intent of the parties and the purpose of this Agreement.

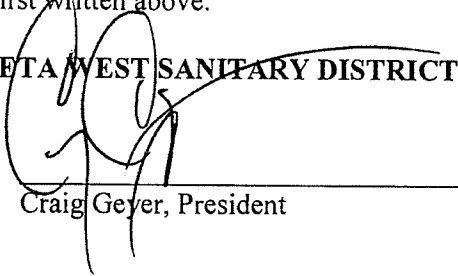
e. **Controlling Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of California, with venue proper only in the County of Santa Barbara, State of California.

f. **Entire Agreement.** This Agreement constitutes the entire Agreement between the parties pertaining to the employment of Employee by the District and supersedes all prior and contemporaneous agreements, representations, promises and understanding of the parties, whether oral or in writing. No supplement, modification or amendment of this Agreement shall be binding, unless executed in writing by all parties and this Agreement may not be altered, amended or modified by any other means. Each party waives their future right to claim, contest, or assert that this Agreement was modified, canceled, superseded or changed by any oral agreement, course of conduct, waiver, or estoppel.

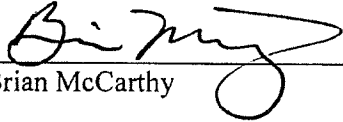
**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the date first written above.

**GOLETA WEST SANITARY DISTRICT**

By:

  
\_\_\_\_\_  
Craig Geyer, President

**EMPLOYEE**

  
\_\_\_\_\_  
Brian McCarthy

**FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES  
ASSISTANT GENERAL MANAGER**

This **First Amendment to Agreement for Professional Services** ("First Amendment") is entered into as of the 1st day of March, 2022 by and between the Goleta West Sanitary District ("District") and Brian McCarthy ("Employee") at Santa Barbara, California.

This First Amendment hereby incorporates the **Agreement for Professional Services for Assistant General Manager** between the District and Employee dated December 7, 2021 ("Agreement"). Unless the terms of this First Amendment contradict and amend the Agreement, all of the remaining terms of the Agreement remain in full force and effect.

The District and Employee agree to amend Section 3 of the Agreement to read as follows:

**3. TERM; TERMINATION.** The term of this Agreement shall begin as of December 1, 2021, and shall continue until March 15, 2022 unless otherwise terminated as provided in this Section and in Section 11 below.

**a. Termination by District.** Notwithstanding the foregoing, the Board of Directors retains the discretion to terminate Employee's appointment as Assistant General Manager without cause upon thirty (30) days prior written notice or, in the Board of Director's sole discretion, payment of thirty (30) days' pay in lieu of notice.

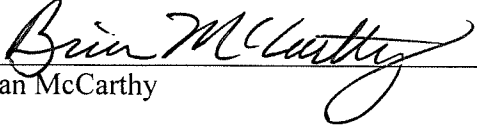
**b. Termination by Employee.** Employee shall have the right to resign from his appointment as Assistant General Manager at any time, provided he gives the District a minimum of thirty (30) days advance written notice. During the thirty (30) day period subsequent to said written notice of resignation, Employee shall continue to discharge his duties as Assistant General Manager to the best of his ability, unless District opts, in its sole discretion, to restrict Employee to performance of the duties of the Chief Inspector or to place Employee on paid leave during all or any portion of said thirty (30) day period. In addition, Employee shall be considered to have voluntarily resigned his employment as Assistant General Manager of the District effective immediately if he fails to return from vacation or from an approved leave of absence or fails to report to work without notice to the District for three (3) consecutive days. If Employee voluntarily resigns from his employment as Assistant General Manager, he shall not be entitled to any severance pay or benefits.

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

**GOLETA WEST SANITARY DISTRICT**

By:   
Larry Meyer, President

EMPLOYEE

  
Brian McCarthy



**AGREEMENT FOR PROFESSIONAL SERVICES  
(GENERAL MANAGER/SUPERINTENDENT)**

**This Agreement for Professional Services** (“Agreement”) is entered into as of the 1st day of July, 2021, by and between the **Goleta West Sanitary District** ("District") and **Mark Nation** ("Employee") at Santa Barbara, California, with reference to the following facts:

- A. District wishes to continue to employ Employee in the position of General Manager/Superintendent of the District and Employee wishes to continue in that position.
- B. District and Employee wish to enter into this Agreement setting forth the terms and conditions governing Employee’s continuation in the position of General Manager/Superintendent of the District.
- C. District and Employee intend to entirely supplant the Agreement for Professional Services between them dated as of April 1, 2016.

**NOW, THEREFORE**, in consideration of the above recitals and of the mutual promises and conditions of this Agreement, **IT IS AGREED** as follows:

1. **EMPLOYMENT**. Employee hereby agrees to continue his employment with the District in the position of General Manager/Superintendent, effective July 1, 2021, on the terms and conditions and for the compensation herein set forth.

2. **SCOPE OF DUTIES AND SERVICES**. Under the terms and conditions of this Agreement, Employee shall personally provide all of the services and duties required to be performed by the General Manager/Superintendent for the District under the general direction and control of the Board of Directors of the District (“Board”). As General Manager/Superintendent, Employee shall assume full responsibility for the operation and management of the District, including the supervision and control of all of District's property, activities, personnel, business and operations, subject to the budgetary guidelines and directives of the Board, and for otherwise carrying out the policies and directives set by the Board. Employee shall perform his obligations and responsibilities diligently within the time parameters indicated by the Board, applying the highest degree of professionalism and good workmanship to every aspect of his obligations.

3. **WARRANTY BY EMPLOYEE**. Employee warrants and represents that he is fully qualified to undertake and perform the duties and obligations of the position of General Manager/Superintendent of the District.

4. **TERM; AT WILL EMPLOYMENT; TERMINATION**. Unless terminated sooner in accordance with this Section 4, this Agreement shall remain in full force and effect until Employee’s retirement, which shall be no later than June 30, 2022. As General Manager/Superintendent, Employee serves at the pleasure of the Board. The Board may choose to terminate Employee's employment for cause; however, Employee's employment is at-will and cause is not required for termination. Except as provided herein, Employer will provide Employee thirty (30) days written notice of termination or, at the District's sole option, the

District may give the Employee pay in lieu of notice for all or any portion of this thirty day period. Notwithstanding the foregoing sentence, Employee's employment may be terminated immediately, with no prior notice, if the Board determines that any of the following grounds for termination exists:

a. Employee has intentionally failed to perform in a manner consistent with his obligations under applicable law, the terms of this Agreement, or with lawful directives issued by the Board.

b. Employee has engaged in the unlawful discrimination against or harassment of employees or any third party.

c. Employee has engaged in dishonesty, fraud, public intoxication or any action or activity that might bring embarrassment or discredit to the District.

d. Employee has been convicted of felony or any crime involving moral turpitude. In the event Employee is charged with a felony or any crime involving moral turpitude, the Board may place Employee on administrative leave with pay, administrative leave without pay, or a combination thereof. In addition, the Board may seek to terminate Employee for cause based on the circumstances relating to the criminal charge(s) to the extent such action is consistent with the terms of this Agreement.

5. **COMPENSATION**. For the services to be provided pursuant to this Agreement, Employee shall receive the following compensation:

a. **Salary**. Employee shall be paid an annual salary in an amount set by the Board in its sole and absolute discretion. Employee's salary shall be payable at the same time as other employees of the District and in accordance with established District procedures. Employee, as an executive employee, is exempt from overtime payments and entitlements under State and Federal laws. In the event the District approves a cost of living adjustment ("COLA") to the compensation of any District employee, the Employee's compensation shall be adjusted at the same time and in the same amount as the average COLA granted to other District employees. The annual COLA to Employee's compensation as provided in this Section 5(a) shall be in addition to, and shall be separate from, any compensation increase granted by District hereunder and shall be granted to Employee for each year in which District grants such COLA to other District employees.

b. **Benefits**. Except as otherwise provided herein, all provisions of the Personnel Policies/Employee Handbook and other rules and regulations of the District relating to vacation, sick leave, retirement, pension system contributions, holidays, and other fringe benefits and working conditions as they now exist or hereafter may be amended, shall also apply to Employee in the same manner as they apply to other employees of the District. In the event of a conflict between this Agreement and such rules and regulations of the District, the terms of this Agreement shall control.

c. **Administrative Leave**. Employee shall receive fifty-six (56) hours of administrative leave with pay during each year of the Agreement. Administrative leave shall be

subject to the provisions of the Personnel Policies/Employee Handbook which apply to vacation leave.

d. **Deferred Compensation.** Employer shall contribute \$1100 per month from July 1, 2021 to June 30, 2022 to Employee's account under the District's Deferred Compensation Program.

6. **SEVERANCE PAY.** In the event Employee's employment with the District is terminated without cause, Employee shall be entitled to severance pay in an amount equal to twenty-four (24) months' salary (plus any amounts of deferred compensation payable pursuant to Section 5(d) of this Agreement), payable within fifteen (15) days of Employee's termination date. Except for the payment of such severance pay, Employee shall not be entitled to any further payment of salary under this Agreement as of the date of the termination without cause. Employee is not entitled to severance pay should his employment be terminated with cause or should he voluntarily resign his employment with the District. The parties acknowledge that this severance pay provision does not alter Employee's status as an at-will employee as provided under the terms of this Agreement.

7. **VEHICLE USE.** District shall make available to Employee a District-owned vehicle for his use in connection with his District responsibilities, including daily commuting between Employee's home and the District offices and facilities. District shall pay for the cost of maintenance, repair and gasoline, and provide insurance for this vehicle. Employee shall operate the District-provided vehicle in a safe manner, and shall maintain a valid California automobile driver's license during the term of this agreement.

8. **REIMBURSABLE EXPENSES.** Expenses incurred by Employee in the performance of his duties under the terms of this Agreement shall be reimbursed to Employee by the District in accordance with the District's Expense Reimbursement Policy.

9. **CONFLICT OF INTEREST.** Employee represents and warrants to District that he presently has no interest, and covenants that he will not acquire any interests, direct or indirect, financial or otherwise, which would conflict in any manner or interfere with the performance of services required to be performed under this Agreement.

10. **RESIGNATION.** If Employee voluntarily resigns from his employment with the District, he will provide the District with a minimum of thirty (30) days written notice. During the thirty (30) day period subsequent to said written notice of resignation, Employee shall continue to discharge his duties as General Manager/Superintendent to the best of his ability, unless District opts, in its sole discretion, to place Employee on paid leave during all or any portion of said thirty (30) day period. In addition, Employee shall be considered to have voluntarily resigned his employment with the District effective immediately if he fails to return from vacation or from an approved leave of absence or fails to report to work without notice to the District for three (3) consecutive days. If Employee voluntarily resigns from his employment with the District, he shall not be entitled to any severance pay or benefits.

11. **INDEMNIFICATION.** District shall indemnify, defend, save, protect and hold harmless Employee against any non-intentional tort, professional liability claim, demand or other legal action, whether groundless or otherwise, arising out of or relating to any alleged negligent

act or omission occurring in the course and scope of the Employee's employment. If District compromises or settles any such claim or suit, it shall pay the amount of such settlement; and the District shall pay any judgment rendered in such action.

**12. GENERAL PROVISIONS.**

**a. Notices.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if personally served or on the second day after mailing if mailed by first-class mail, registered or certified, return receipt requested, postage prepaid and properly addressed as follows:

To District: President  
Goleta West Sanitary District  
P.O. Box 4  
Goleta, CA 93116-0004

To Employee: Mark Nation  
P.O. Box 684  
Los Olivos, CA 93441

Any party may change their address for purposes of this section by giving the other party written notice of the new address in the manner set forth above.

**b. Waiver.** The waiver of any breach of any provision hereunder by either party to this Agreement shall not be deemed to be a waiver of any other provision or subsequent breach hereunder, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.

**c. Construction of Terms.** The language of all parts of this Agreement shall be construed according to their plain meaning and shall not be construed for or against either party. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment or exhibits hereto.

**d. Severability.** If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be unenforceable, void or invalid, in whole or in part, for any reason, the remainder of the Agreement shall remain in full force and effect. In the event of such entire or partial invalidity, the parties hereto agree to enter into supplemental or other agreements to effectuate the intent of the parties and the purpose of this Agreement.

**e. Controlling Law.** This Agreement shall be construed in accordance with and governed by the laws of the State of California, with venue proper only in the County of Santa Barbara, State of California.

**f. Entire Agreement.** This Agreement constitutes the entire Agreement between the parties pertaining to the employment of Employee by the District and supersedes all

prior and contemporaneous agreements, representations, promises and understanding of the parties, whether oral or in writing. No supplement, modification or amendment of this Agreement shall be binding, unless executed in writing by all parties and this Agreement may not be altered, amended or modified by any other means. Each party waives their future right to claim, contest, or assert that this Agreement was modified, canceled, superseded or changed by any oral agreement, course of conduct, waiver, or estoppel.

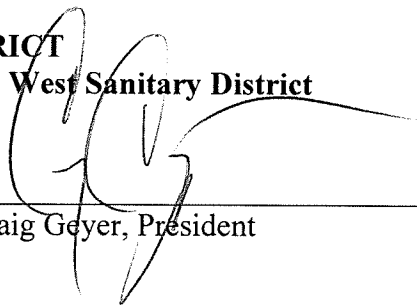
**13. TERMINATION OF PREVIOUS AGREEMENT.** This Amended Agreement shall supplant and entirely replace the Agreement for Professional Services dated as of April 1, 2016 between the District and Employee.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement effective as of the date first written above.

**DISTRICT**  
**Goleta West Sanitary District**

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

Craig Geyer, President



**EMPLOYEE**

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

Mark Nation

