SWEETWATER SPRINGS WATER DISTRICT

TO: Board of Directors **AGENDA NO. III-D**
FROM: Michael Gogna, District Counsel

Meeting Date: **October 1, 2009** **Subject: Approving Amendment to General Manager's Employment Agreement**

RECOMMENDED ACTION:

Adopt Resolution 09-24, approving a First Amendment to the At-Will Employment Agreement with Stephen F. Mack and Authorizing the Board President to Execute Said Amendment

FISCAL IMPACT:

A COLA for the General Manager was already incorporated into the FY 2009-10 Budget, so the only fiscal impact on wages is up to $4,951.92 in vacation accrual payout.

DISCUSSION:

Steve Mack was hired as General Manager of the District as of September 2, 2008. The terms and conditions of employment are described in an At-Will Employment Agreement ("Original Agreement"), dated September 2, 2008. On August 6, 2009, the Board conducted an evaluation of the General Manager's performance and found said performance to be satisfactory. Based, in part, on the Board's assessment of the General Manager's performance and his contributions to the District during the past year, the Board has agreed to amend the Original Agreement as follows:

1. A 3% cost-of-living increase in compensation
2. Sick leave accrual shall be one day for each month of work up to a maximum of twelve (12) days per calendar year.
3. Payment of vacation leave (accrued as of August 31, 2009) up to a maximum of two weeks.
4. Accept limited employment opportunities as an outside consultant subject to the prior approval of the Board of Directors

The First Amendment to the Original Agreement incorporates these provisions. With these modifications, the Original Agreement remains in full force and affect.

BOARD ACTION: Date: _____ Approved: ___ Denied: _____

UNANIMOUS ___ QUIGLEY ___ WIKLE ___ SCHAAP ___ KEACH ___ SMITH ___

Resolution No. 09-24

A Resolution of the Board of Directors of the Sweetwater Springs Water Approving A First Amendment to Employment Agreement with Stephen F. Mack, and Authorizing the Board President to Execute Said First Amendment

WHEREAS, the Sweetwater Springs Water District ("District") entered into an At-Will Employment Agreement on or about September 2, 2008 ("Original Agreement") with Stephen F. Mack ("Mack") to serve as General Manager of the District; and

WHEREAS, the Board of Directors of the District recently evaluated Mack's performance as General Manager and has determined that Mack's performance has been satisfactory and he has made significant contributions to the District while serving as General Manager; and

WHEREAS, Mack has requested an amendment to the Original Agreement in recognition of his contributions to the District and to permit him to accept limited employment opportunities as an outside consultant, all as described in the terms of the First Amendment to At-Will Employment Agreement ("First Amendment") attached hereto as Exhibit A; and

WHEREAS, the Board of Directors desires to amend the Original Agreement in the manner described herein and as further described in the First Amendment;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Sweetwater Springs Water District, Sonoma County, California, that:

1. The Original Agreement is hereby amended to permit Mack to accept limited employment opportunities as an outside consultant subject to the prior approval of the Board of Directors and pursuant to the terms set forth in the First Amendment.

2. Mack's compensation shall be increased by 3% to reflect a cost-of-living adjustment, to be effective as of September 3, 2009.

3. Certain adjustments to Mack's sick leave and vacation accrual are hereby modified as described in the First Amendment.

4. All other terms of the Original Agreement remain in effect, except as otherwise set forth in the First Amendment.

5. The Board President is hereby authorized and directed to execute the First Amendment on behalf of the District.

I hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Board of Directors of the SWEETWATER SPRINGS WATER DISTRICT, Sonoma County, California, at a meeting held on October 1, 2009, by the following vote:

Director	Aye	No
Victoria Wikle	_____	_____
Sukie Robb-Wilder	_____	_____
Jim Quigley	_____	_____
Gaylord Schaap	_____	_____
Wanda Smith	_____	_____

_____
Julie A. Kenny
Clerk of the Board of Directors

APPROVED:

Victoria Wikle _____
Sukie Robb-Wilder _____
Jim Quigley _____
Gaylord Schaap _____
Wanda Smith _____

Exhibit A to Resolution 09-24

FIRST AMENDMENT TO AT-WILL EMPLOYMENT AGREEMENT
Stephen F. Mack

This First Amendment to At-Will Employment Agreement ("this Amendment) is made between the SWEETWATER SPRINGS WATER DISTRICT ("District") and Stephen F. Mack ("Employee") and is dated for convenience the 3rd day of September, 2009.

Recitals

A. District and Employee entered into an At-Will Employment Agreement dated September 2, 2008 ("Original Agreement"), whereby Employee agreed to serve the District in the position of General Manager.

B. On August 6, 2009, the District Board of Directors (the "Board") conducted an evaluation of Employee's performance and found said performance to be satisfactory.

C. Based, in part, on the Board's assessment of Employee's performance and contributions to the District, the parties hereto ("Parties") wish to amend the Original Agreement.

Based on the foregoing Recitals and other considerations, the Parties agree to amend the Original Agreement as follows**:**

1. TERM

The duties and obligations of Employee as set forth in the Original Agreement shall continue to be in effect except as modified by this Amendment. Notwithstanding the foregoing, and to the extent that other employment does not interfere with Employee's performance of such duties and obligations, Employee may, with the prior consent of the Board, accept other limited employment opportunities as a "consultant" as long as such other employment opportunities do not require the Employee to be absent from the District office for more than three (3) consecutive days nor more than five (5) days in any one month and provided that such other employment does not result in a conflict of interest for Employee or the District.

2. COMPENSATION

Employee's compensation as set forth in the Original Agreement shall be increased by 3% as a cost-of-living adjustment, said increase to be effective as of September 3, 2009.

3. SUPPLEMENTAL BENEFITS

a. Sick Leave. Employee shall accrue sick leave benefits at the rate of one day for each month of work up to a maximum of twelve (12) days per calendar year, with no accrual limit. Accrued sick leave remaining at the time of Employee's termination from District employment shall be forfeited and Employee shall not be paid for such sick leave.

b. Accrued vacation. Prior to December 31, 2009, Employee shall be paid for vacation leave that was accrued but unused as of August 31, 2009, up to a maximum of two weeks of accrued vacation leave.

4. NOTICES.

Any notice that is required to be given in writing to Employee shall be delivered via first class mail with the postage prepaid and addressed as follows:

Stephen F. Mack
16130 Brookside Drive
Guerneville, CA 95446

Except as otherwise modified by this Amendment, the terms and conditions of the Original Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have caused this Amendment to be signed and executed to be effective as of the date first shown above.

_____
Stephen F. Mack, Employee

_____
Victoria Wikle, Board President
Sweetwater Springs Water District

APPROVED AS TO FORM

_____
Michael Gogna, District General Counsel