

DIRECTOR AND GENERAL MANAGER EMPLOYMENT AGREEMENT

This Director and General Manager Employment Agreement (Agreement) is effective September 22, 2015 between the Board of Commissioners (Employer) of the Lansing Board of Water and Light (LBWL), and Richard R. Peffley (Employee). It is pursuant to the power and duty under the City Charter of the City of Lansing (City Charter), article 5, chapter 2, to "appoint a Director who shall be responsible to the Board for carrying out the duties assigned by the Board and shall serve at its pleasure." On September 22, 2015, the Board affirmatively voted to appoint Richard R. Peffley as the LBWL's Director and General Manager. This Employment Agreement delineates the employment terms between the parties:

I. EMPLOYMENT

The Employee has most recently been appointed and employed as Interim General Manager of the LBWL, pursuant to an Agreement which provided that it would terminate automatically when a General Manager is hired. The Interim General Manager Agreement is terminating automatically because the Employer and the Employee are entering into this Agreement, which employs the Employee as Director and General Manager. The Employer and the Employee agree that the employment relationship will be at-will. The Employee will perform the duties described in Article III of this Agreement, as well as any other duties that may be assigned to him by the Employer and/or LBWL. The Employee accepts such employment upon all of the terms and conditions set forth in this Agreement.

II. TERM

The term of employment under this Agreement shall begin on September 22, 2015, and shall continue until July 31, 2016, subject to the provisions for annual reappointment, as provided in the Lansing City Charter and section 8.1 of the Board's Rules of Administrative Procedure (Rule 8.1), and unless terminated sooner in accordance with Article VI. If the Employee is reappointed, this Agreement will renew on August 1 of each year that Employee is reappointed, for an additional twelve (12) months. If the Employee is not reappointed, or if the term of employment is terminated pursuant to Article VI of this Agreement, the Agreement and Employee's employment will be terminated, and the date that this occurs will be referred to as the "Date of Termination." Any and all compensation and benefits will cease effective on the Date of Termination, except as otherwise specifically provided by this Agreement or by law. The period between September 22, 2015 and Date of Termination shall be referred to as the "Contract Period." The period between September 22, 2015 and July 31, 2016, and each 12-month period beginning on August 1 after July 31, 2016, shall be referred to in this Agreement as the "Contract Year."

III. DUTIES AND OBLIGATIONS

- A. The Employee, as the Director and General Manager of the LBWL, agrees and promises to perform and discharge, well and faithfully, the duties assigned to him by the Employer for the conduct of the LBWL's business. Those duties shall include those generally assigned to the Director and General Manager of a municipal utility under the general supervision, direction and advice of the Employer and the Employee's job description, as it may be amended from time to time in the absolute discretion of the Employer, with notice to the Employee. The Employee agrees to perform those duties necessary to meet the expectations and goals of the Employer as established from time to time by the Employer. The Employee shall report directly to the Board of Commissioners.
- B. During his employment as Director and General Manager, the Employee shall be subject to, uphold and enforce all rules, policies, and procedures applicable to the non-bargaining employees of the LBWL, except to the extent there is a separate policy or procedure that applies only to Board of Commissioner employees.
- C. The Employee shall devote such time, attention, and energies to the business of the LBWL as is necessary for the Employee to satisfactorily perform his duties as Director and General Manager, and it is intended that the Employee work on a full-time basis. Except as otherwise provided in this Agreement or the LBWL's policies as adopted by its Board of Commissioners, the Employee shall not during the Term of this Agreement be engaged in any other business activity or accept any other employment that conflicts in timing or substance with the Employee's duties for Employer or which would negatively impact the LBWL or the Employer, without prior approval of the Employer. During his employment as Director and General Manager, the Employee shall not serve on the board of directors or hold an office in a company or organization that presents any conflict of interest with the LBWL that materially affects the performance of the Employee's duties. However, the Employee shall not be prevented from becoming a director of a corporation, if the directorship has been previously approved by the Employer. If the Employee becomes the director of a corporation with the approval of the Employer, the Employee shall not be indemnified or held harmless by the Employer from any liability or damages arising from such service or activities.
- D. The Employer should review and evaluate the performance of the Employee at least once each Contract Year. During each Contract Year, the Employee shall provide to the Employer specific and prioritized goals and objectives, and the Employer may add to, modify, delete and/or re-prioritize those goals and objectives, at the Employer's sole discretion. The goals and objectives should generally be attainable within the time limitations as specified, and the annual

operating and construction forecasts and appropriations provided.

IV. COMPENSATION

The Employee shall receive a Salary equivalent to an annualized gross amount of Two Hundred Fifty-Five Thousand Dollars and Zero Cents (\$255,000.00), payable bi-weekly or in other installments that are consistent with the LBWL's regular payroll practices and procedures. This Salary is subject to review by the Employer, which typically shall be on an annual basis, at which time the Salary may be adjusted.

V. BENEFITS AND EXPENSES

The LBWL shall provide the Employee with those fringe benefits that the LBWL provides to non-bargaining employees of the LBWL. All benefits may be amended, augmented or discontinued from time to time at the absolute discretion of the LBWL and/or the Employer. Except insofar as this provision may be contrary to applicable law, no sale, transfer, alienation, assignment, pledge, collateralization or attachment of any benefits under this Agreement shall be valid or recognized by the LBWL. The value of benefits will be subject to tax as required by law.

- A. The Employee shall be entitled to vacation and free choice days, based on his service time with the LBWL and as set forth in the Employee Policies and Benefits Reference Handbook, as modified or amended.
- B. To allow for immediate response to system emergency situations, the Employee shall be provided a vehicle allowance in the amount of Five Hundred Dollars (\$500.00) per month for the use of an automobile during the Contract Period.
- C. The Employee shall be reimbursed for reasonable, necessary and authorized expenses incurred in the course of performing his duties, in accordance with the LBWL policy and procedure. The Employee shall submit a quarterly report to the LBWL detailing all expenses incurred.

VI. TERMINATION

The Employee serves at the pleasure of the Employer pursuant to the City Charter and, as such, the parties are in an at-will employment relationship. The at-will employment relationship cannot be modified, except in conjunction with the City Charter, and except pursuant to an express written agreement, specifically modifying such “at will” employment status that is signed by both the Employee and the Chairperson of the Board and that is approved by a majority of the confirmed Board of Commissioners. The Employee's employment and this Agreement and all rights to wages and benefits, except as otherwise specifically provided by law or this Agreement, may be terminated, effective immediately, as follows:

- A. Voluntary Termination by Employee: Pursuant to the at-will employment relationship, the Employee may terminate his employment and this Agreement at any time, for any or no reason. Notice of voluntary termination shall be by certified mail, return receipt requested, or by hand delivery, to the Chairperson of the Board of Commissioners at the registered office of the LBWL. When the Employer receives the Employee's notice of voluntary termination, the Employer may, at its sole discretion, immediately, or at any time during the notice period, place the Employee on an administrative leave of absence until the effective date of the Employee's voluntary termination.
- B. Termination At Will: This Agreement and the employment relationship may be terminated by the Employer, with or without cause, at any time, with or without notice from the Employer. There is no fixed or minimum term to this Agreement, although the Employee's employment as Director and General Manager is subject to the reappointment provisions, explained in Article II and paragraph (C) below. Termination of this Agreement must be effectuated by a vote taken by the Employer, and a majority of the sitting and confirmed Board of Commissioners must vote to terminate. Termination will be effective upon the vote to terminate.
- C. Termination for Failure to Re-Appoint: If a majority of the sitting and confirmed Board of Commissioners fails to affirmatively vote to re-appoint the Employee in accordance with its Rules of Administrative Procedure, this Agreement and the employment relationship shall terminate, effective on the date of the vote.

- D. Termination Upon Death or Disability: This Agreement and the employment relationship may terminate upon the Employee's death, or due to the Employee's "Total Disability." "Disability" is defined, for purposes of this Agreement, as a condition (or conditions) resulting from injury or illness, physical or mental, experienced by the Employee that commences or occurs during the Contract Period and that prevents the Employee from performing the ordinary and regular duties required by his employment, with or without reasonable accommodation. A Total Disability is a Disability that continues for at least One Hundred Eighty-Two (182) consecutive calendar days or for at least One Hundred Twenty (120) working days in the aggregate, during a rolling 12-month period. If the Employee is absent from active, full-time active employment with the Employer for at least ninety (90) calendar days (Initial Period of Disability) due to a Disability, any subsequent absence during the rolling 12-month period, due to a Disability, shall be considered a continuation of the Initial Period of Disability for purposes of this Agreement. If there is any disagreement between the Employer and the Employee regarding whether the Employee has a Disability, the determination shall be made through a written opinion of a physician selected by the Employer. The Employer shall be required to give the Employee at least fifteen (15) calendar days' written notice of the Employer's intent to terminate the employment of the Employee based upon Total Disability.
- E. Mutual Agreement: The employment relationship and this Agreement may be terminated upon written mutual agreement signed by both the Employee and the Employer.
- F. Rights to Wages and Benefits upon Termination: As noted, the Employee's entitlement to all wages and benefits ceases upon termination of employment, but the Employee would be eligible to receive all rights and benefits typically available to non-bargaining unit employees based on his cumulative years of service, including his years of service accrued with the LBWL before becoming the Director and General Manager. These rights and benefits may include retirement funds or benefits.

VII. RESTRICTIVE COVENANTS

- A. The Employee acknowledges that in the course of his employment with the LBWL, the Employee will be exposed to and will obtain access to materials and information of the LBWL that constitute confidential and/or proprietary information of the LBWL. The Employee agrees that he shall not use or disclose, during or after his employment with the LBWL, such information for any purpose other than in connection with his employment and shall not disclose any such information to any person outside of the LBWL. The Employee shall, upon

request by the Employer or LBWL, return or destroy, as directed by the Employer or LBWL, any media in/on which such information is recorded. By entering into this Agreement, the Employee represents and warrants that he is able to perform the contemplated duties of employment without breach of confidentiality or disclosure of proprietary information of any third party.

- B. The Employee agrees that, during and after his employment with the LBWL, the Employee will fully and voluntarily cooperate and assist in defending any actions against the LBWL in which the Employee is named as a defendant or witness or about which he has knowledge.
- C. The Employee agrees that during the term of his employment with the LBWL and for a period of two (2) years after the termination of his employment relationship with the LBWL, the Employee will not directly or indirectly, either individually, or on behalf of, or in conjunction with another person, organization, or entity, contact any employee, who was an employee of the LBWL at the time of the Employee's Date of Termination or within the two-year period prior to the Date of Termination, for the purpose of soliciting such employee for work or employment with a person, organization or entity other than the LBWL.
- D. This Article shall survive termination of the Employment Agreement and employment.

VIII. LBWL RESOURCES

The Employee recognizes that all LBWL resources of any kind and nature including, but not limited to, equipment, files and documentation are the sole property of the LBWL and shall not be used for personal or any other reasons that are not for the benefit of the LBWL. In the event that this Agreement is terminated, the Employee agrees to return all LBWL materials, documents and equipment acquired during his term of employment, and all materials, documents, passwords, and equipment requested by the Employer or LBWL. Specifically, this is to include without limitation, documents, computer discs, software, computers, work papers, notes, articles, phone lists, correspondence, reports, phone cards, office keys, pass codes, and any and all materials related to employment with the Employer and LBWL. This Article shall survive termination of the Employment Agreement and employment.

IX. DISPUTE RESOLUTION

Both parties agree that this Agreement will be enforced through alternative dispute resolution as described below. This Article is not to be construed as modifying the at-will employment relationship, and therefore the Employee, the Employer, or the LBWL has the right to terminate the employment relationship for any or no reason, as long as it is not for unlawful reason. Also, notwithstanding anything to the contrary in this Article, but without limiting the power of the arbitrator to grant similar remedies that may be requested by a party in a dispute, the parties have the right to proceed in any court of proper jurisdiction to obtain injunctive relief.

- A. All disputes, controversies, or claims arising out of, in connection with, or relating to this Agreement or any breach or alleged breach of the Agreement, and any claim that the Employer or LBWL violated any state or federal statute (including discrimination/civil rights claims) or Michigan common law doctrine or committed any tort regarding the Employee in relation to his employment shall be submitted to and settled by final and binding arbitration in Ingham County, Michigan under the rules then in effect of the Employment Dispute Resolution Rules of the American Arbitration Association or at any other place or under any other form of arbitration mutually acceptable to the parties involved (Arbitration Service).
- B. The parties agree that the demand for arbitration will be made in writing to the Arbitration Service, and copied to the other party, within one hundred eighty-two (182) calendar days of when the party making the demand knew or should have known about the event precipitating the demand, or before expiration of the applicable statute of limitations, whichever period is shorter. The parties specifically agree to arbitration with the other party in a joint proceeding for all common issues and disputes. This Agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law and by a court of competent jurisdiction. The arbitration and any litigation will be held in Ingham County, Michigan.
- C. The parties may be represented by an attorney or other representative of their choice. Each party shall have the right to prehearing discovery in the time and manner provided by the then-applicable Michigan Court Rules. Each party will have the right to subpoena witnesses and documents for the arbitration hearing.
- D. The arbitrator will have no power to add to, subtract from, or alter the terms of this Agreement, nor may the arbitrator modify the at-will employment relationship. The arbitrator will render a written decision setting forth the facts, findings and conclusions only about the claims or disputes at issue. The arbitrator has full authority to award any and all relief provided for by the applicable statute. If the party fails to prevail on the cause of action, the arbitrator will issue an

award of no cause of action.

- E. The expenses of any arbitration shall be borne by the Employer, except that portion that is equal to the current civil filing fee in federal court shall be payable by the Employee if the Employee demanded the arbitration. Each party will pay for and bear the costs of its own experts, evidence, and counsel fees. However, if any party prevails on a statutory claim, the arbitrator may award reasonable costs and fees, including attorney fees and the portion of the arbitrator's fees paid by the party, to the prevailing party in accordance with such statute.
- F. Any award by the arbitrator will be in writing, will contain findings of fact and conclusions of law, will be final and conclusive upon the parties and a judgment may be entered in the highest court for the forum, state or federal, having jurisdiction. After the entry of an arbitral award in favor of the Employee, the Employer and LBWL will have up to thirty (30) calendar days after it receives notice of the award to fully comply with the award; a judgment may not be entered to enforce the award until the Employer and LBWL have had an opportunity to comply with the arbitral award according to this provision. Any arbitral award regarding compensation due to the Employee because of an involuntary termination shall be limited to an amount equal to the salary that the Employee would have received between the effective date of the involuntary termination and the end of that Contract Year.

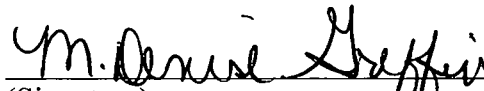
X. MISCELLANEOUS

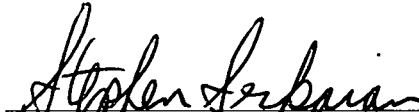
- A. This Agreement contains all of the terms and conditions of the contractual relationship between the parties, and no amendments or additions to this Agreement shall be binding unless they are in writing for that purpose and signed by both parties.
- B. This Agreement shall be binding upon the parties, their legal representatives, successors, and assigns. The Employee agrees that this Agreement shall not be assigned, hypothecated, or transferred in any way by the Employee, the Employee's personal representatives, heirs, or legatees, or any other person.
- C. This Agreement supersedes, abrogates and takes the place of all prior employment contracts and/or understandings that may have been made between the Employee and the Employer or the LBWL.
- D. The captions or headings of this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of this Agreement or any of its sections, nor do they in any way affect this Employment Agreement.

- E. This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Michigan.
- F. The invalidity of all or any part of any articles or paragraphs of this Agreement shall not invalidate the remainder of this Agreement or the remainder of any article or paragraph not invalidated unless the elimination of such article or paragraph shall substantially defeat the intents and purposes of the parties.
- G. No waiver of any provision of this Agreement shall be effective unless made in writing and signed by the waiving party. The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.
- H. The Employee affirms that he is competent to sign this Agreement and is hereby advised to consult with an attorney of his choosing before executing this Employment Agreement. The Employee further acknowledges that no representations have been made with respect to the income or estate tax or other consequences of this Agreement to him and that he has been advised of the importance of seeking independent advice of counsel with respect to such consequences.

The parties have executed this Agreement on the date listed on the first page of this Agreement.

WITNESSES


(Signature)
M. Denise Griffin
(Printed or Typed Name of Witness)


(Signature)
STEPHEN SERKALIAN
(Printed or Typed Name of Witness)

EMPLOYEE


Richard R. Peffley

EMPLOYER

Board of Commissioners,
Lansing Board of Water and Light

By: 
David J. Price, Chairperson