Agenda Item 8C

STAFF REPORT

TO:	Board of Directors
PREPARED BY:	Geoffrey Evers, District Legal Counsel
SUBJECT:	Approve an Employment Agreement with Steven Palmer for the Position of General Manager

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RECOMMENDATION
Approve the renewed employment agreement.

BACKGROUND
The District and General Manager Palmer entered into a five-year employment agreement effective August 13, 2021. The initial term of that agreement is over, and the parties wish to enter into a new employment agreement.

DISCUSSION
The renewed employment agreement includes the following changes from the initial employment agreement:

- Term of five years.
- Increase severance package from 3 months to 6 months if terminated without cause.
- Post-election protection from termination without cause.
- Compensation terms are unchanged from the initial agreement: Three percent (3%) increase effective immediately and three percent (3%) increase effective August 2027. Receives the same cost of living adjustments as all District staff and is eligible for merit increases in conjunction with the annual performance evaluation.

FISCAL IMPACT
The Fiscal Year 2026/2027 Operating Budget includes an appropriate budget for the General Manager salary and a budget amendment is not needed.

CEQA ASSESSMENT
This action is not a project as defined by CEQA.

ATTACHMENTS
1. New Employment Agreement

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Attachment 1

EMPLOYMENT AGREEMENT WITH STEVEN PALMER

This Agreement is entered into this 13th day of August, 2026, by and between the Donner Summit Public Utility District (the "District") a local public agency of the State of California, and Steven Palmer (the "Employee") with respect to the following facts:

A. The District is formed and operates pursuant to the California Public Utility Code 15501 eŞ. seq ...

B. The District is governed by a five-member elected Board of Directors (the "Board").

C. The Public Utility Code provides that the Board may appoint a General Manager, whose responsibilities and powers are described therein.

D. The Board desires to hire Employee as the General Manager, and the Employee desires to accept such employment, subject to the terms and conditions set forth herein.

WHEREFORE, the parties hereto agree as follows:

1. Employment. The District hereby hires Employee, and Employee accepts employment with the District, upon terms and conditions set forth herein.

2. Duties. Employee shall work full time for the District as its General Manager. Subject to such restrictions as the District may impose, the Employee shall have full charge and control of the construction of the works, be responsible for the functions of the District. The Employee shall report to the Board in accordance with such rules, regulations, and policies as it may adopt. The Employee shall perform such other services as the District may determine from time to time. The Employee shall perform such services with due diligence and in the best interests of the District.

3. Additional Duties. The Employee shall endeavor to maintain and improve his professional competence by all available means including subscription to and reading of appropriate periodicals, maintenance of membership in appropriate professional organizations, and attendance at professional meetings at the local, state, and national level, with prior District approval. Expense of such subscriptions, memberships and attendance is to be borne by the District, subject to prior District approval.

4. Relations With the Public. The Employee acknowledges that the position of General Manager is a position of high visibility before the public. The Employee shall conduct himself before the public, both during and outside of regular working hours, in a manner that reflects favorably upon the Employee and the District.

5. Term of Agreement. The term of this Agreement shall commence on August 16, 2026, and shall continue until August 16, 2031.

    a. Initial Option to Renew Agreement. The District may, on or before May 18, 2031, request to renew this Agreement for a period of one (1) additional year. If the District renews this Agreement, it shall provide Employee an automatic three (3) percent salary increase for the renewed term (in addition to any other cost of living adjustment increases or other adjustments that the District has voted on pursuant to Section 6(a)).
    b. Second Option to Renew Agreement. In addition to the initial option to renew Agreement set forth above, the District may, on or before May 18, 2032, request to renew this Agreement for a second period of one (1) additional year. If the District renews this Agreement, it shall provide Employee an additional automatic three (3) percent salary increase for the second renewed term (in addition to any other cost of living adjustment increases or other adjustments that the District has voted on pursuant to Section 6(a)).

6. Compensation. So long as this Agreement is in effect, the Employee shall receive the following compensation:
    a. Salary. As compensation for the proper and satisfactory performance of all duties to be performed by Employee hereunder, the District shall pay to the Employee a base salary of $215,235,000 per year, payable in 26 equal installments, less required deductions for state and federal withholding tax, Social Security and other such Employee taxes or Employee benefit deductions. The District shall annually review Employee's salary thirty (30) days before the anniversary of this Agreement, and any renewal term.
    b. Automatic Salary Increase. In recognition of the Employee executing this new Agreement in-lieu of two one-year renewals, the Employee shall receive an automatic three (3) percent salary increase on August 16, 2027, in addition to any cost of living adjustment increases described in Section 6(c) or other adjustments that the District has voted on pursuant to Section 6(a).
    c. Cost-of-Living. The Employee shall be entitled to an annual cost-of-living increase beginning July 1 of each year that this Agreement is in force. The cost-of-living increase shall be the same as provided to other District employees.
    d. Vacation. The Employee shall be entitled to 15 working days per year of vacation leave with pay, exclusive of District recognized holidays. Employee will not be required to expend any of his accrued vacation for any day in which he works at least four (4) hours.
    e. Holidays. The Employee shall be entitled to the same paid holidays as are provided to other District employees.
    f. Health and Dental Insurance. The Employee shall be entitled to the same health and dental benefits as are provided to other District employees.

g. Disability Insurance. The Employee shall be entitled to the same disability insurance benefits as are provided to other District employees.
h. Sick Leave. The Employee shall accrue twelve (12) days of paid sick leave annually. Total accumulated sick leave shall not exceed four hundred (400) hours.
i. Pension. Employee will participate in the District's Pension Plan and the District shall contribute 7.5% annually to Employee's retirement and deferred compensation fund.
j. Vehicle Allowance. The Employee shall not receive a monthly vehicle allowance.
k. Reimbursement of Expense. The District shall reimburse the Employee for all actual and necessary expenses incurred by the Employee within the scope of employment and while representing the District.
l. Hours of Work: The compensation provided to the General Manager as stated above is based upon the assumption that the General Manager will work a forty (40) hour work week consistent with the normal business hours of the District. However, the District recognizes that the affairs of the District may obligate the General Manager to work in excess of a 40-hour work week and accordingly it is understood that the hours of the General Manager may differ from time to time due to special circumstances from those hours normally maintained by District personnel. Therefore, the Employee shall not be required to deduct from his vacation or sick leave if he works at least four (4) hours in a day. The General Manager is an exempt position as defined in the policies and procedures of the District and for the purpose of considering the Fair Labor Standards Act (FLSA). Correspondingly, no overtime compensation shall accrue or be paid or payable to the General Manager.
m. Accumulation of Benefits. The benefits described in this Paragraph No. 6 accrue on a daily basis, and Employee shall be entitled to accumulate unused vacation leave, sick leave and other benefits in the same manner as other District employees arc entitled to accumulate such benefits at the time of the execution of this Agreement.

7. <u>Termination of Agreement</u>.
   a. In the event that the General Manager desires to terminate this contract prior to the expiration of its term, or renewed term(s), set forth in Section 5, General Manager shall give the District no less than ninety (90) days written notice. Pursuant to Water Code 30542, the District may terminate this contract at any time, with or without cause. Upon termination of this Agreement prior to the expiration of the term, or renewed term(s), set forth in Section 5., the District shall have no further obligation to compensate General Manager under Section 6 of this Agreement if such termination arises from:
      i. Voluntary termination by General Manager;
      ii. Termination by the District for theft, willful destruction of District property;
      iii. Termination by the District upon sufficient proof of the use of illegal drugs, alcohol or intoxicants by General Manager on duty, or on District property;
      iv. Termination by the District upon conviction of the General Manager of any crime involving moral turpitude;

v. Any breach of a material term or condition of this Agreement by the General Manager, which remains uncorrected after 60 days of written notice from the Board of Directors.

vi. Any material violation of District Code, Policies or Procedures by the General Manager, which remains uncorrected after 60 days of written notice from the Board of Directors.

In any other event of termination of this Agreement prior to the expiration of the term set forth in Section 5., including any termination without cause, any performance-based termination, and any Constructive Termination under Section 7e, the District shall be obligated to pay General Manager an amount equal to six (6) months of General Manager's then current salary, plus all accrued but unused vacation and sick leave. In addition, the District shall pay the premiums necessary to continue the General Manager's health and dental insurance coverage (or equivalent COBRA premiums) at the then current coverage levels for six (6) months following termination, or until the General Manager obtains comparable coverage through subsequent employment, whichever occurs first. Such payment to the General Manager shall be in either lump sum, or monthly installments, at the election of the General Manager at the time of termination.

The parties acknowledge that, pursuant to the California Water Code, the Employee serves at the pleasure of the Board, and the Employee and this Agreement may be terminated, without cause, at the sole discretion of the Board. However, the parties recognize that, if the Employee's performance is perceived to be deficient in any area, it is generally in the best interests of the District and the Employee to communicate openly, to discuss any differences with a view toward resolving such differences, and give the Employee a reasonable period of time to correct any deficiencies in his performance. Therefore, in the event that the Board determines that any deficiencies in the Employee's performance are sufficient to warrant termination of the Employee and this Agreement, then at least 60 days prior to the effective date of such termination, the Board shall deliver to the Employee a written statement notifying the Employee of the anticipated termination date and containing specific and detailed descriptions of (1) the areas in which the Employee's performance is determined to be deficient, and (2) suggestions for improvement. The Board shall also meet with the Employee to discuss the matters described in the statement. During the 60 day period from the date of the written notice to the anticipated termination date, the parties shall make a sincere and serious effort to resolve their differences and to correct the areas in which the Employee's performance is deficient. If at the end of the 60 day period the Board in its sole discretion determines that the deficiencies in the Employee's performance are sufficient to warrant termination, then the Board may immediately terminate the Employee without any further notice.

b. Notwithstanding anything else contained in this Paragraph No. 7, this Agreement may be terminated by either party in the event of a material breach of the Agreement by the other party, provided that written notice of such breach is delivered to the breaching party at least 15 days prior to any such termination and such breach is not cured within said 15 day period.

c. Notwithstanding anything else contained in this Paragraph No. 7, this Agreement shall terminate automatically upon the death or permanent disability or incapacity of the Employee.

d. Notwithstanding anything else contained in this Paragraph No. 7, this Agreement may be terminated by the District in the event Employee becomes unable for any reason whatsoever to perform Employee's duties hereunder for a period or periods aggregating more than 2 months during any consecutive 12 month period.

e. A “Constructive Termination” shall be deemed to occur if, without General Manager’s written consent, the Board (1) materially reduces General Manager’s salary other than as permitting by Section 6(a); (2) materially and substantially reduces the duties, authority, or responsibilities of the General Manager position; or (3) requests General Manager’s resignation. A Constructive Termination shall be treated as a termination by the District without cause.

f. Post-Election Protection. Notwithstanding any other provision of this Agreement, the Board shall not terminate General Manager’s employment without cause, and shall not deliver a notice of performance deficiency under this Section 7, during the period beginning ninety (90) days before, and ending one hundred twenty (120) days after, any District election, or the date on which any vacancy on the Board is filled by election or appointment. Any termination in violation of this Section shall be treated as a termination by the District without cause entitling General Manager to the severance provided in Section 7a.

8. <u>Performance Objectives</u>. On or prior to August 1 of each year and each succeeding year, the Employee shall meet with the Board to establish performance objectives for the current fiscal year. Performance objectives shall be reduced to writing and shall be based upon the duties and responsibilities set forth in this Agreement, and other criteria mutually agreed upon by the Employee and the Board.

9. <u>Review of Performance</u>. At least once each year, and prior to June of each year, the Board shall evaluate the performance of the Employee according to a format provided by the Employee and approved by the Board. In the event the Board determines that the performance of the Employee is satisfactory, the Board shall so state at its next regular Board meeting. In the event that the Board determines that the performance of the Employee is less than satisfactorily, the Board shall describe in written detail the unsatisfactory

performance, including specific instances where appropriate. Each area rated unsatisfactory shall be supplemented with recommendations for improvement. The Employee may respond orally or in writing to the Board regarding the evaluation.

10. <u>Review of Salary</u>. At the conclusion of the Review of Performance, the Board shall evaluate the salary of the Employee and determine if any adjustment is required. Cost of Living increases granted by the Board shall be considered separately from this review and the Employee shall be entitled to the same cost of living adjustment as provided to other district employees if the adjustment is for all employees.

11. <u>District Responsibility</u>. The District Board of Directors has primary responsibility for formulating and adopting District policies. The Employee is the General Manager of the District and has the primary responsibility for execution of District policy. The parties shall cooperate fully to assist one another in satisfying these responsibilities, and shall not interfere with nor usurp the responsibilities of the other party.

12. <u>Non-Assignability</u>. Neither this Agreement, nor any interest herein, shall be assigned, transferred, hypothecated or otherwise conveyed by either party.

13. <u>Attorneys' Fees</u>. In the event of any litigation concerning any controversy, claim or dispute between the parties hereto, arising out of or relating to this Agreement or the breach thereof, or the interpretation thereof, the prevailing party shall be entitled to recover reasonable expenses, attorney's fees, and costs therein.

14. <u>Arbitration</u>. Any controversy or claim arising out of or relating to this Agreement, its enforcement, arbitrability or interpretation, or because of an alleged breach, default or misrepresentation in connection with any of its provisions, or arising out of or relating in any way to employee's employment or termination of employee's employment, including, for example, any alleged violation of statute, common law or public policy, shall be submitted to final and binding arbitration, to be held in the county were this Agreement was entered into, before a single arbitrator, in accordance with California Civil Procedure §§ 1280 et seq. The arbitrator shall be selected by mutual agreement of the parties or, if the parties cannot agree, then by striking from a list of arbitrators supplied by the American Arbitration Association or JAMS/Endispute. The arbitrator shall issue a written opinion stating the essential findings and conclusions upon which the arbitrator's award is based. The District will pay 100% of the arbitrator's fees and arbitration expenses and any other costs unique to the arbitration hearing (recognizing that each side bears its own deposition, witness, expert and attorney's fees and other expenses to the same extent as if the matter were being heard in court). Any dispute as to the reasonableness of any fee or cost shall be resolved by the arbitrator. Nothing in this paragraph shall affect the District's or the Employee's ability to seek from a court injunctive relief. This arbitration provision means that each party is waiving their right to a civil trial under this agreement. This arbitration provision is binding on both parties to this agreement. Both parties understand that this

arbitration provision creates contractual rights and obligations. Employee knowingly waives his right to trial and consents to arbitration for claims or causes of action arising under the following: the California Fair Employment and Housing Act, Title 7 of the U.S. Code, the federal Americans with Disabilities Act, the federal Age Discrimination in Employment Act, and any other claims or causes of action arising out of wrongful termination or employment related claims. Employee and the District agree that claims for workers' compensation, or unemployment insurance, shall not be subject to arbitration under this Agreement. Employee further understands that be has the right to seek the advice of independent counsel prior to signing any document obligating employee under this provision. Both parties agree that this arbitration provision shall be enforceable after the termination of the employment relationship, or the expiration of this Agreement. Both parties consider confidentiality to be of the utmost concern. This arbitration provision shall be governed by California law. Both parties, Employee and the District, agree that any demand for arbitration will be presented to the District by United States Certified Mail, return receipt requested, within six (6) months after tbe date of termination of such employment, or within six (6) months of the date of the incident subject to dispute, whichever event is sooner, and employee waives any statute of limitations to the contrary.

15. Governing Law. The construction of this Agreement, and the rights and liabilities hereto, shall be governed by the laws of the State of California.

16. Entire Agreement. This Agreement, including the arbitration provisions set forth below, contains the entire agreement of the parties hereto, and supersedes any prior written or oral agreements between them concerning the subject matter contained herein. There are no representations, agreements, arrangements, or understandings, oral or written, between the parties hereto relating to the subject matter contained in the Agreement which are not fully expressed herein. The provisions of this Agreement may be waived, altered, amended or repealed in whole or in part only upon the written consent of all parties to this Agreement.

Employee:	District:
______________________________	______________________________
Steven Palmer, General Manager	Cathy Preis, President Board of Directors
______________________________	______________________________
Date	Date