



January 18, 2018

MEMO

TO:

Steven Willey, Board Chair
Chandra Chilmakuri, Chair, Compensation and Governance Committee

FROM: John Roberts 

RE: Update on CEO's employment agreement; 2017

Background. In the Employment Agreement ("Agreement") between me and the Conservancy, I am required to notify the Board Chair and the Compensation and Governance Committee Chair on or about the anniversary of my employment with the Conservancy that it is time to review the CEO's performance and compensation. This typically sets in motion the consideration of the employment agreement between me and the Conservancy as well as any adjustments to compensation. This process also provides the Board an opportunity to conduct a performance evaluation of my work as Executive Director of the Conservancy.

At the March or April Board meeting, the Conservancy's Board typically considers the Agreement that exists between the Conservancy and me as its Executive Director.

Accordingly, it is that time again this year for any evaluation the Conservancy's Board of Directors may wish to conduct.

Request for renewal of Employment Agreement. I would like to renew the Agreement between the Conservancy and me. Since the beginning of my employment with the Conservancy, the usual term of the Agreement has been for three (3) years.

Conclusion.

Thanks for giving me the opportunity to help the Conservancy serve its mission. Please call on me if more information is needed.

Performance Evaluation Practices
Conservancy Executive Director and CEO

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Statement of Purpose. This paper describes the process the Conservancy's Board of Directors typically uses for Executive Director performance evaluations and related adjustments, if any, to compensation.

Introduction. As a matter of good governance practices, the Board of Directors of the Conservancy conducts annual performance evaluations of the Conservancy's CEO/Executive Director ("Executive Director"). The evaluation process provides Board members with an opportunity to voice any issues with the Executive Director's performance and for the Executive Director to learn more about the Board's expectations.

Performance evaluation. The chair of the Board's Compensation and Governance Committee (CGC) gathers information regarding the Executive Director's performance for the prior year. This starts with obtaining from the Executive Director a self-evaluation of the Executive Director's employment performance for the prior year. The Executive Director submits the self-evaluation to the CGC chair by December 31 of each year.

The CGC chair then sends the submitted Executive Director self-evaluation to Board members along with a request that Board members fill out a performance evaluation form (copy attached) for the Executive Director. The CGC chair requests Board members complete the Executive Director's performance evaluation form and email it directly to the CGC chair no later than February 1 of each year, including any additional comments regarding:

- 1.) compliance with the Job Description (see below),
- 2.) adherence to the Employment Agreement with the Conservancy, and
- 3.) general performance.

Following receipt of Board members' evaluations, no later than March 1 of each year, the CGC will synopsize Board members' evaluation forms into one document.

At the next Board of Directors meeting, in closed session,

- 1.) the CGC chair shares with the Board the results of the CGC compilation of Board member evaluations,
- 2.) the CGC chair shares with the Board any recommendations of the CGC (this report is normally verbal, and is used to initiate discussion among Board members),

- 3.) the Board then discusses and finalizes the evaluation of the Executive Director's performance,
- 4.) after the meeting is completed, the Board Chair and the CGC chair meet with the Executive Director to convey the results of the Board's evaluation,
- 5.) the CGC chair and the Board Chair follow up with a written performance review, and along with the Executive Director's self-evaluation and Executive Director's response (optional) to the Board's performance evaluation, are included in the Executive Director's personnel file by April 15 of each year, and
- 6.) individual Board members' forms are to be held by CGC chair until such time the process is complete; when complete, the forms are destroyed.

Past practice; compensation adjustments. In any CGC meeting (or in non-meeting communications with CGC members) where the Executive Director's performance evaluation is conducted, the CGC also considers the Executive Director's compensation. At this time, the CGC evaluates whether there should be any adjustment to the Executive Director's compensation for the coming 12 months.¹

At the Board of Director's meeting where the Executive Director's performance is evaluated,² the Board discusses any proposed changes to the Executive Director's compensation.³ If there are changes, then these are generally referred to legal counsel, who provides for an amendment to the Employment Agreement between the Executive Director and the Conservancy. This is then scheduled for action at the next regular Board of Directors meeting if it was not acted on at the above-noted Board meeting.

Conclusion. The performance review of the Conservancy's Executive Director is intended as a communications tool. By going through an evaluation process and by communicating the results of this process with the Executive Director, it is more likely the Board and Executive Director are clear on expectations. It also helps insure that at least annually, the Board of Directors engages itself in a discussion as to the adequacy of the services of the Executive Director for the benefit of the Conservancy.

¹ The Board is required to determine that any changes to a chief executive officer's compensation are "just and reasonable." See excerpt from California Government Code, Section 12586(g):

The board of directors of a charitable corporation or unincorporated association, or an authorized committee of the board, and the trustee or trustees of a charitable trust shall review and approve the compensation, including benefits, of the president or chief executive officer and the treasurer or chief financial officer to assure that it is just and reasonable. This review and approval shall occur initially upon the hiring of the officer, whenever the term of employment, if any, of the officer is renewed or extended, and whenever the officer's compensation is modified. Separate review and approval shall not be required if a modification of compensation extends to substantially all employees

The CGC and the Board should have available to them a report to use in making the "just and reasonable determination."

² The Board convenes in Executive Session for the Executive Director's performance evaluation.

³ Action taken to change the Employment Agreement between the Conservancy and its Executive Director, including adjustments to the Executive Director's compensation, if any, are conducted in open session.

JOB DESCRIPTION
Executive Director
The Natomas Basin Conservancy

February 1999

General: Serves as the chief executive officer. Recommends and participates in the formulation of new policies and makes decisions within existing policies as they have been approved by the Board of Directors. Plans, organizes, directs and coordinates the staff, programs and activities of the organization to assure that objectives are attained and plans fulfilled. Maintains effective internal and external relationships on behalf of the organization. Through management and leadership, achieves economical, productive performance, forward-looking programs and constructive management of the organization.

Specific: Within the limits of the bylaws and policies of the organization, the executive director is responsible for and has commensurate authority to accomplish the duties set forth below:

- Sees that the Board of Directors are kept informed on the conditions and operations of the organization.
- Attends all meetings of the Board of Directors.
- Plans, formulates and recommends for the approval of the Board of Directors, basic policies and programs which further the objectives of the organization.
- Executes the decisions of the Board of Directors.
- Develops, for purposes of day-to-day administration, specific policies, procedures and programs to implement the general policies established by the Board of Directors.
- Establishes a sound organization structure for the headquarters office and recruits, hires, trains and motivates organization staff. Responsible for all hiring and employment terminations. Directs and coordinates all approved programs, projects and major activities of the headquarters staff.
- Maintains effective relationships with other organizations, both public and private.
- In cooperation with the Board of Directors develops and recommends, and upon approval, operates within, an annual budget. Insures that all funds, assets and property of the organization are safeguarded and appropriately administered. Assists with audits that the Board of Directors orders.
- Oversees the collection of fees and other income, properly accounts for their receipt, and reports on this activity to the Board of Directors on a timely basis.

- Performs a secretarial function for the Board of Directors, maintains official minutes and keeps them and all other important organizational papers and documents in an appropriate and safe place.
- Works with legal counsel, accountants and the Board of Directors to make sure the organization is in compliance with all laws, and that financial and accounting rules, standards and regulations are adhered to.
- Is responsible for the planning, promotion and administration of all official meetings of the organization.
- Carries out such other general responsibilities as may be delegated by the Board of Directors.

Relationships: Is responsible to the Chairman/President for the administration of the headquarters office and for the proper interpretation and fulfillment of all of the Executive Director functions, responsibilities and authority. Also, serves as ex-officio to the Board of Directors, without right to vote.

Functions of Executive Director
The Natomas Basin Conservancy
A partial list

Area of engagement to fulfill job requirements	Examples
1. economic analysis	NBHCP Finance Model, MAP alternative fee proposal analysis, Greenbriar HCP fee analysis, etc.
2. implement habitat conservation plans	Natomas Basin Habitat Conservation Plan, Metro Air Park Habitat Conservation Plan; proposed Greenbriar Habitat Conservation Plan.
3. asset accounting and management	\$60 million plus in assets; accounting for audit, federal and state agencies; useful life; long-range planning for replacement, etc.
4. web site content management	design and content provision
5. weed control and management	weed management is independently evaluated and graded each year by biological monitoring contractor; HCP requirements for same, both terrestrial and aquatic.
6. security	property, personnel, contractor, data, archives, etc.
7. interagency and governmental relations	SAFCA, RD1000, NCMWC, CalTrans, U.S. Bureau of Reclamation, Central Valley Regional Water Quality Control Board, U.S. Army Corps of Engineers, Air Resources Board, City of Sacramento, County of Sutter, etc.
8. monitor and manage investment advisors	T. Rowe Price, City of Sacramento, Wells Fargo Advisors, staff
9. crop protection materials management	understand and guide authorized use of pesticide on Conservancy property
10. general property management	4,200 acres
11. employee and personnel management	hire, motivate and retain staff

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|-------------------------------------|---|
| 12. insurance | property, liability, directors and officers, machinery and boiler, workers compensation, etc. |
| 13. irrigation and water | with farm tenants, on marsh complexes, manage Conservancy's 11 percent interest in the Natomas Central Water Company, Bureau of Reclamation allocations and certifications, State Water Resources Control Board, etc. |
| 14. agronomy | farming on 2,100-plus acres, milling and marketing affiliations, federal farm program participation, livestock, etc. |
| 15. contractor relationships | manage farmer contractors, land maintenance contractors, biological monitoring contractors, fencing contractors, well drilling and maintenance contractors, legal counsel, accounting, etc. |
| 16. archive and document management | HCP requires Conservancy serve as repository and archivist for all documents related to the HCP, IAs and Plan Operator; formats, retrieval, off-site storage, public access, etc. |
| 17. Board relations | work with the Board of Directors on matters ranging from inquiries to meeting organization and serving committees of the Board. |
| 18. "customer" relations | regular and reliable communication with those the Conservancy serves as Plan Operator for. |

DRAFT

Table 1
The Natomas Basin Conservancy
CPI Change from December 2016 through December 2017

Item	CPI-U West Area [1]
December 2016	249.516
December 2017	257.347
Change	7.83
Percentage Change	3.14%

Source: US Dept. of Labor, Bureau of Labor Statistics

cpi

[1] CPI for all urban consumers, all Items, West Area

"Just and reasonable" Worksheet

Consideration of a change in the Employment Agreement between the Conservancy and its
Executive Director

*This purpose of this document is only to assist in determining that the Conservancy
Executive Director compensation meets "just and reasonable" standards.*

January 18, 2018

The Board or an authorized committee of the Board is required to determine that changes to a chief executive officer's compensation are "just and reasonable." See excerpt from California Government Code, Section 12586(g):

The board of directors of a charitable corporation or unincorporated association, or an authorized committee of the board, and the trustee or trustees of a charitable trust shall review and approve the compensation, including benefits, of the president or chief executive officer and the treasurer or chief financial officer to assure that it is just and reasonable. This review and approval shall occur initially upon the hiring of the officer, whenever the term of employment, if any, of the officer is renewed or extended, and whenever the officer's compensation is modified. Separate review and approval shall not be required if a modification of compensation extends to substantially all employees.

There are four sources used to help determine if the CEO's compensation meets a "just and reasonable" standard in this worksheet:

- Excerpts from *Association Compensation & Benefits Study, 2016 - 2017 Edition*, American Society of Association Executives. This is the most current study available from ASAE. It is the primary resource for non-profit organization compensation administration.
- City and County of Sacramento (for comparable positions or relevant for other reasons).
- Levels of compensation for previous jobs held by the Executive Director in Sacramento (this was requested by a previous Conservancy Board) and helps meet "community standards" test.
- Levels of compensation for California Department of Food and Agriculture Marketing Branch compensation survey for 2017. We believe this is the best analog for comparison purposes, although there are some differences, especially in duties, assets and risk management.

1. Association Compensation & Benefits Study, 2016-2017 Edition

The most prevalent of the non-profit organization compensation studies comes from the American Society of Association Executives in Washington, D.C. Its extensive surveys are commonly used in compensation administration by non-profit organizations throughout the United States. In the table below, please find excerpts from the Study that may be helpful.

From: *Association Compensation & Benefits Study, 2016-2017 Edition*. American Society of Association Executives. Washington, D.C.

**Relevant Excerpts from
 Association Compensation & Benefits Study, 2016 - 2017 Edition***

Non-profit organization comparators by type	Median (\$)	Average (\$)	Source
CEO Base Salary by Total Budget (\$1,000,000 to \$4,999,999) for <i>trade associations</i> (not membership organizations)	196,000	203,896	Table 1.1
CEO Base Salary and Total Compensation by Total Budget (\$1,000,000 to \$4,999,999) for <i>professional associations</i> (not membership organizations)	164,400	182,360	Table 1.1
CEO Base Salary by Total Budget (\$1,000,000 to \$4,999,999) for <i>Other types of non-profit organizations</i> (neither trade nor membership organizations)	210,000	196,471	Table 1.1
CEO Base Salary Summary Data by Select Metropolitan Area-Sacramento	158,000	228,870	Table 1.6
CEO Base Salary by Total Annual Budget, \$1,000,000 to \$4,999,999 (most number of reported samples)	180,137	192,725	Table 1.6

*Compensation includes only base compensation. The Conservancy does not provide other cash compensation or deferred compensation benefits. Note that in previous years, the Conservancy's budget exceeds the \$1,000,000 to \$4,999,999 range. In multiple years, it fit into the ASAE study's \$10,000,000 to \$24,999,999 category. CEO Total Compensation in that category is \$351,005 for the median and \$375,658 for the mean.

Non-tabled data includes the following:

- A majority (72.1%) provided merit increases averaging 3.0 percent in the current year. (page 28) down from 4.0 percent last year.
- Most organizations (86.7%) guarantee an annual salary review for the CEO on an annual basis. (Page 30)
- Executive committees most commonly review CEO performance (41%) followed by boards of directors (29.1%)

2. Job Description & Salary Schedule, City of Sacramento, County of Sacramento

Prior Conservancy Board of Director discussions noted that the Conservancy Executive Director position would likely fit into the City of Sacramento's Deputy City Manager compensation classification. The City no longer lists a Deputy City Manager job position, so the Director of Public Works and Assistant City Manager classifications have been used as substitutes, even though they are considered at a rank below a Deputy City Manager. Also added is the County of Sacramento since it has multiple similar positions. These are updated below. Source:

"Government Compensation in California," Controller's Office, State of California, January 2018. *Important note:* these listings are for positions that include a CalPERS or similar benefit package. The Conservancy does not participate in CalPERS or any other defined benefit pension plan.

Classification	2016 Wages*
Director of Public Works, City	\$228,939
Assistant City Manager, City	\$200,833
Chief Deputy County Executive, County	\$221,901**
Director of Community Development, County	\$203,950

*does not include CalPERS or other pension benefits or health care costs, etc.

**other Chief Deputy County Executive listings include \$215,808 and \$215,406.

3. Levels of compensation for previous jobs held in Sacramento.

In a prior Board discussion on appropriate compensation for the Executive Director, Board members asked that in trying to meet the "community standard" test, one comparator should be the CEO's previous positions and the level of pay set by those employers for his successor(s). The following represents the CEO's previous employers and what each pays its CEO/Executive Director. The information provided is for the most recent compensation report available.

Previous employer	Position	Source	Annual reported Compensation
Sacramento Area Commerce and Trade Organization (renamed Greater Sacramento Area Economic Council)	Executive Director and CEO	IRS Form 990 (2016)	\$581,720 ¹
Sacramento Metro Chamber of Commerce	Executive Director and CEO	IRS Form 990 (2014)	\$239,530 ¹
California Rice Commission	Executive Director	Department of Food and Agriculture, State of California, (2014)	\$221,000

¹ The CEO's exact compensation could not be confirmed because he has not had enough time in the job to have a Form 990 filed. However, multiple reports in the Sacramento Bee state that Barry Broome's compensation exceeds the amount shown above in the table.

¹ The Chamber's CEO could not be determined from IRS Form 990 filings for the current Executive Director/President. From published records, the prior CEO's compensation was \$239,530 in 2014. (Does not include interim CEO.)

4. Levels of compensation for similar type positions in Sacramento.

There are numerous jobs in Sacramento for farming related non-profit organizations. However, none are responsible for large land holdings as well as operating complex habitat conservation plans as does the Conservancy. There is excellent published data for these farming-related non-profit organizations through the California Department of Food and Agriculture's (CDFA) Marketing Branch. In the department's 2017 "Salary Summary," the following results were shown:

For organizations with annual budgets ranging from \$2,500,001 to \$7,500,000¹... the range of annual compensation was listed at \$155,000 to \$260,000. The average compensation for this group was \$204,809.²

The average salary adjustment for the prior year was shown by CDFA as 3.6 percent with the median at 4.0 percent.

The Conservancy's unique position. The Conservancy is caught between the public world and the private world. Unlike private companies, it doesn't have equity compensation programs, restricted stock awards and profit sharing programs, and unlike public employers, doesn't have such benefits as those offered by CalPERS (e.g., defined benefit pension plans and health care). The Conservancy also is comparatively small in terms of staff size, although in some years, its income has been substantially higher than the non-profit organizations in Northern California that have been used to make these comparisons.

In order to stay flexible and keep fixed costs at a minimum, the Conservancy has contracted out much of what other organizations would add staff for. This addresses "span of control" issues; whereas it would be easy to "staff up" to show a larger span of control, but this would likely not be in the best interest of the Conservancy. And unlike the very largest non-profits in the region, many employee benefit programs used by such organizations are impractical for small non-profits like the Conservancy due to relative high costs, administrative burden and compliance liabilities.

I look forward to continued service with the Conservancy, and am quite willing to respond to any questions that may arise.

¹ The next range was a budget of \$7,500,001 and higher. See attached schedule. The Conservancy has frequently had annual revenue in this range and higher. The average compensation for chief executives in this higher category was \$301,340 with a range of \$199,500 to \$456,248.

In this calculation, the Conservancy uses annual expenditures instead of revenue because annual Conservancy revenue is highly variable, largely unpredictable and mostly not influenced by management action. If revenue were to be used, the average annual revenue for the Conservancy is \$6,322,055.00.

² Source: "2017 Salary Summary for Chief Executives of California Marketing Programs, California Department of Food and Agriculture."

2017 SALARY SUMMARY FOR CHIEF EXECUTIVES OF CALIFORNIA MARKETING PROGRAMS

Facts about This Summary

- This summary is based on current salary information collected by the CDFA Marketing Branch for full-time chief executives of California's boards, councils, and commissions. Part-time contractual management arrangements are not included.
- In categorizing the programs by budget size, the Marketing Branch does not intend to imply that the size of a program's budget is the only or most important criteria that should be considered in establishing a chief executive's salary. Other criteria such as experience of the manager, diversity of program activities, complexity and size of the industry, and the number of program employees should also be considered in chief executive salary deliberations.
- If a chief executive administers both a state and a federal program, the budgets of both programs have been added and treated as one program.
- Performance-based incentives have been incorporated into the salaries. However, very few programs routinely provide this type of compensation each year.
- Benefits have not been included in this salary summary since there does not appear to be a significant correlation between budget size and benefit packages. A typical benefits package includes vacation/sick leave, a retirement program, medical insurance, dental insurance, and vision insurance. Many programs also provide disability insurance, life insurance, and some form of auto arrangement (use of a company car or a monthly car allowance). In addition, some programs provide some level of funding toward health insurance coverage for the chief executive's family.
- For instances in which the chief executive position is currently vacant, the program's target salary for the incoming chief executive is used.

Results of This Year's Summary

- The average salary adjustment this past year for continuing chief executives was + 3.6%
- The median salary adjustment this past year for continuing chief executives was + 4.0%

Additional Information: Average salary and median salary information is presented below. One should exercise caution in referencing these figures because they can vary significantly from year to year depending upon such factors as program start-ups, program terminations, retirements of chief executives, and programs shifting from full-time employees to contracted management services. Percentage salary adjustment figures for continuing chief executives, as presented above, tend to provide a more stable and more accurate reflection of general salary trends.

- The current average chief executive salary is \$198,413. This reflects a 0.12% decrease from last year's average salary of \$198,648.
- The current median chief executive salary is \$170,000. This reflects a 9.68% increase from last year's median salary of \$155,000.

Range of Each Program's Budgeted Expenditures	Number of Programs Within Range	Average Budgeted Expenditures Within Range	Chief Executive Salary Spectrum Within Range	Average Chief Executive Salary Within Range
up to \$2,500,000	9	\$1,324,043	\$82,160 to \$150,000	\$125,531
\$2,500,001 to \$7,500,000	6	\$5,729,564	\$155,721 to 260,000	\$204,809
\$7,500,001 and over	6	\$23,901,263	\$199,500 to \$456,248	\$301,340

Last Updated: 4-4-2017