

## EMPLOYMENT AGREEMENT FOR GENERAL MANAGER

This Agreement, dated as of November 15, 2017, is between WESTERN MUNICIPAL WATER DISTRICT ("District"), and CRAIG MILLER ("Employee") and shall become effective December 29, 2017. District and Employee agree to the following terms and conditions of employment.

1. **Period of Employment.** District shall continue to employ Employee from the date of this Agreement until the employment is terminated in accordance with Section 5.

2. **At-Will Employment.** Employee is an at-will employee who shall serve at the pleasure of the Board of Directors ("Board"). The terms of the District's personnel rules, policies, procedures, ordinances or resolutions ("Personnel Policies") as they relate to termination of employment and discipline shall not apply to Employee, and nothing in this Agreement is intended to, or does, confer upon Employee any right to any property interest in continued employment, or any due process right to a hearing before or after the decision to terminate his employment for good cause. Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of Employee to resign at any time from this position with District, subject only to the provisions set forth in Section 5 of this Agreement.

3. **Position and Responsibilities**

(a) **Position.** Employee accepts employment with District as General Manager and shall perform all services appropriate to that position, as well as such other services as may be assigned by the Board. The Board may at any time during the term of this Agreement modify such services. Employee shall devote his best efforts and full-time attention to the performance of his duties. He shall report to, and at all times be subject to the direction of, the Board.

(b) **Scope of Duties.** Employee shall be employed as the General Manager of the District, subject to the control and direction of the Board. As the General Manager, Employee provides day-to-day leadership for District and is directly responsible to the Board on all matters pertaining to the administration and operations of District including current or future duties associated with the court appointed Watermaster, as mutually agreed upon between Employee and Board.

(c) **Other Activity.** Employee (during his employment with District) shall not engage, directly or indirectly, in any other business, commercial, or professional activity (whether or not pursued for pecuniary advantage) that is or may be competitive with District, that might

create a conflict of interest with District, or that otherwise, might interfere with the business of District.

4. **Compensation and Benefits**

(a) **Compensation.** District shall pay Employee a salary of Two Hundred Seventy-Eight Thousand Three Hundred Twenty-Five Dollars (\$278,325) annually. Employee, as an executive employee, is exempt from overtime payments and entitlements under state and federal laws.

(b) **Compensation Increases.** So long as Employee maintains at least a satisfactory performance evaluation, the District shall increase the employee's salary by the percentage change to the Consumer Price Index—Urban—CPI—U for the Los Angeles, Anaheim, Riverside area for the preceding 12 months ending in March (subject to a 2% minimum and 5% maximum). The CPI increase will be effective on the first day of the last pay period beginning in June. District may increase said compensation of Employee in such amounts and to such extent as the Board may determine that is desirable to do so on the basis of a performance review of Employee. As an executive employee, governed by this Agreement, any and all adjustments to Employee's compensation will be obtained through negotiation with the Board and are not governed by the District's Personnel Policies or a memorandum of understanding with an employee organization.

(c) **Benefits.** Standard Benefits: Except as provided below in this Section 4, Employee shall receive the same benefits package offered to District's management employees as set forth in the Confirmation of Understanding as the same may from time to time be established by District.

(d) **Health Insurance.** District shall provide Employee medical, dental and vision insurance coverage, with District fully paying for Employee and dependents. In addition, Employee shall receive a District provided Medical Spending Account.

(e) **Vacation.** Employee will earn four (4) weeks of vacation annually, accrued pro-rata throughout the year. Employee's vacation accrual shall be subject to an 8-week ceiling. Employee must use at least two (2) weeks accrued vacation time on an annual basis. Unused vacation will be paid out upon leaving the District. Employee may cash out up to two (2) weeks of vacation per calendar year.

(f) **Sick Leave.** Sick Leave shall accrue and be credited to Employee's personal account at a rate of one day per month. Sick Leave will accrue to the maximum of one thousand (1,000) hours. Unused Sick Leave will be paid out upon leaving the District.

(g) **Holidays.** Holidays shall be in accordance with the District's current practices and are subject to change. Holidays will be those deemed authorized by the District.

(h) **Life Insurance.** If not available through other benefits, District agrees to purchase and to pay during the term of this Agreement, premiums on term life insurance policies equal in amount to one and one-half (1.5) times the amount of the annual salary of Employee as described in this Section.

(i) **Deferred Compensation.** Employee shall be entitled to participate in the District's Deferred Compensation plan and the District shall match Employee's contributions up to five percent (5%) of Employee's salary.

(j) **Leave Requests.** Notice of leave requests (with or without pay) shall be submitted to the President of the Board who may review them with the full Board for approval.

(k) **Personnel Policies.** In the event of a conflict between this Agreement and the Personnel Policies, the terms of this Agreement shall control.

(l) **PERS Retirement.** District will contribute the Employer portion and the Employee will contribute the Employee portion of PERS Retirement.

(m) **Automobile Allowance.** Employee shall receive an auto allowance of \$900 per month. If at any time Employee believes that this allowance does not adequately reimburse him for his expenses related to use of his automobile for District business, Employee shall submit an expense reimbursement request documenting all of his expenses for that month. Employee shall at all times maintain insurance coverage on any vehicle he utilizes for District business. Employee shall operate any vehicle used in connection with services provided under this Agreement in a safe manner, and shall maintain a valid California automobile driver's license during the term of this Agreement. Failure to maintain the insurance coverage or driver's license required under this Section shall constitute a material breach of this Agreement.

(n) **General Business Expenses.** District shall reimburse Employee for reasonable travel and other business expenses incurred by Employee in the performance of his duties. Expenses shall be limited to those reasonable and necessary for the performance of

Employee's duties under this Agreement. Employee shall submit for approval and reimbursement to the Board such forms, appropriately itemized with supporting documentation and the Board may reasonably require receipts and other evidence as required for appropriateness. Allowable expenses will include, subject to budgetary approval by the Board, professional dues and subscriptions of Employee necessary for his continuation and full participation in national, regional, state and local associations and organization necessary and desirable for his continued professional participation, growth and advancement and for the good of District.

(o) **Business Related Equipment.** District shall provide a \$100 per month allowance to Employee for the cost of a smart phone and supply a portable computer (inclusive of office docking station, if desired).

(p) **Professional Development and Affiliations.** The Board desires for the Employee to be active in professional organizations to contribute to District's standing in the region. As such, District agrees to pay for, to the extent allowed by law, travel and subsistence expenses of Employee for professional development and affiliations. Expenses will include official travel, meetings and occasions adequate to advance and continue the professional development of Employee and to adequately pursue necessary official functions for District and such other regional, state and local governmental groups and committees thereof which Employee serves as a member.

(q) **Administrative Leave.** Employee is permitted to take up to ten (10) days per calendar year of paid administrative leave. Unused administrative leave will be paid out on December 31st each year.

## 5. **Termination of Employment**

(a) **By District Not for Cause.** At any time, District may terminate Employee for any reason, with or without cause, by providing Employee written notice. District may discipline, demote or dismiss Employee as provided in this Section 5 notwithstanding anything to the contrary contained in or arising from any statements, policies, or practices of District relating to the employment, discipline, or termination of its employees. In the event that Employee's employment is terminated by the District without cause, Employee shall be entitled a severance package of six (6) months of salary ("severance pay") increasing one month per full year of service pursuant to this Agreement, up to 9 months salary. (Employee will not be entitled to severance if Employee resigns or dies.) Except for the vacation and sick leave cash outs in Section 4(e) and (f), this is the maximum cash settlement that employee may receive as a result of termination of this contract.

The parties expressly acknowledge and agree that the Severance Pay provisions have been independently negotiated. Acceptance by Employee of the Severance Pay benefits provided by this section shall operate as a full and complete waiver and release of any and all rights, claims and/or causes of action which Employee may have, or have had, at any time, in the past or in the future, arising out of Employee's employment by District, including, but not limited to, claims for wrongful termination. (Employee agrees to sign a Severance Agreement that is substantially similar to the one attached as Exhibit "A".) If Employee wishes to retain any such rights, Employee must decline to accept the severance benefits provided by this section.

Acceptance of the severance benefits under this paragraph will operate as a general release on the part of Employee as to all claims, known or unknown, and Employee specifically waives the provisions of California Civil Code Section 1542 which provide:

"A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS/HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIS/HER MUST HAVE MATERIALLY AFFECTED HIS/HER SETTLEMENT WITH THE DEBTOR."

(b) **By Employee Not for Cause.** At any time, Employee may terminate his employment for any reason, with or without cause, by providing District with sixty (60) days' advance written notice. District shall have the option, in its complete discretion, to make Employee's termination effective at any time prior to the end of such notice period, provided District pays Employee all compensation due and owing through the last day actually worked, plus an amount equal to the base salary Employee would have earned through the balance of the above notice period.

(c) **By District for Cause.** At any time, District may immediately terminate this Agreement by providing Employee written notice of the cause for termination. No severance or any further salary will be paid in the event Employee's employment is terminated for cause. "Cause" for termination shall be defined for purposes of this Agreement to include: (i) malfeasance; (ii) gross negligence; (iii) fraud; (iv) serious misconduct; (v) conviction of, or plea of guilty or nolo contendere to, any felony as defined by California law on the part of Employee. (A plea or verdict of guilty or a finding of guilt by a court in a trial without a jury is deemed to be a conviction within the meaning of this clause irrespective of a subsequent order under provisions of section 1203.4 of the Penal Code allowing withdrawal of a plea of guilty and entering a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusations or information); (vi) inability to perform the essential functions of the position for 90 or more days within any 120 day

period; (vii) insubordination; (viii) theft or attempted theft; (ix) material dishonesty; (x) willful or persistent material breach of duties; (xi) engaging in unlawful discrimination or harassment of employees or any third party while on District premises or time; (xii) unauthorized absence for more than three (3) days; and (xiii) other material violation of District policies or rules. Employee shall be entitled to a post-termination appeal before the Board, or its designee, by delivering a request for appeal to the Board President within ten (10) days of the date of the notice of termination. Following this administrative appeal, should the Board, or its designee, find that there was not cause to terminate this Agreement, Employee shall only be entitled to the severance payment referenced above in Section 5(a).

(d) **Termination Obligations.** Employee agrees that all property, including, without limitation, all equipment, tangible Proprietary Information (as defined below), documents, records, notes, contracts and computer-generated materials furnished to or prepared by Employee incident to his employment belongs to Employer and shall be returned promptly to District upon termination of Employee's employment.

(e) **Government Code Requirements.** Pursuant to Government Code Section 53243 et seq., if Employee is convicted of a crime involving an abuse of office or position, as defined below, all of the following shall apply: (1) if Employee was provided with paid leave pending an investigation into the matter, Employee shall be required to fully reimburse the District for those amounts paid; (2) if the District, in its discretion, paid for the criminal defense of Employee, Employee shall be required to fully reimburse the District for all amounts paid; (3) if the District paid any severance pay under this Agreement, Employee shall be required to fully reimburse the District for all amounts paid. "Abuse of office or position" shall have the meaning set forth in Government Code Section 53243.4, or its successor.

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

7. **Proprietary Information.** "Proprietary Information" is all information and any idea pertaining in any manner to the business of (or any District affiliate), its employees, clients, consultants or business associates, which was produced by any employee of District in the course of his or her employment or otherwise produced or acquired by or on behalf of District. Proprietary Information shall include, without limitation, trade secrets, product ideas, inventions, processes, formulas, data, know-how, software and other computer programs, copyrightable material, marketing plans, strategies, sales, financial reports, forecasts and customer lists. All

Proprietary Information not generally known outside of District's organization, and all Proprietary Information so known only through improper means, shall be deemed "Confidential Information." During his employment by District, Employee shall use Proprietary Information, and shall disclose Confidential Information, only for the benefit of District and as is necessary to perform his job responsibilities under this Agreement. Following termination, Employee shall not use any Proprietary Information and shall not disclose any Confidential Information, except with the express written consent of District. Employee's obligations under this Section shall survive the termination of his employment and the expiration of this Agreement.

8. **Performance Evaluation.** No less than once per year, the Board will review and evaluate the performance of Employee. The Board will consider salary adjustment at that time. Review and evaluation will be in accordance with specific criteria developed jointly by Board and Employee. Both the Board and Employee may mutually define goals and performance objectives, including priorities, as they determine necessary for the proper operation of District and the attainment of the District's policy objectives. Failure of the Board to provide a performance evaluation shall not limit the Board's ability to terminate this Agreement pursuant to Section 5.

9. **Notices.** All notices, requests, demands and other communications under this Agreement shall be in writing and shall be effective upon delivery by hand or three (3) business days after deposit in the United States mail, postage prepaid, certified or registered, and addressed to District at the address below, or to Employee at the last known address maintained in Employee's personnel file. Employee shall be obligated to notify District in writing of any change in his address. Notice of change of address shall be effective only when done in accordance with this Section. All documentation will also be supplied to the District's legal counsel.

**District Notice Address:**

President, Board of Directors  
Western Municipal Water District  
14205 Meridian Pkwy.  
Riverside, CA 92518

**Employee's Notice Address:**

Craig Miller

10. **Action by District.** All actions required or permitted to be taken under this Agreement by District, including, without limitation, exercise of discretion, consents, waivers and amendments to this Agreement, shall be made and authorized only by the Board or its designee.

11. **Integration.** This Agreement is intended to be the final, complete and exclusive statement of the terms of Employee's employment by District. This Agreement supersedes all other prior and contemporaneous agreements and statements, whether written or oral, express or implied, pertaining in any manner to the employment of Employee, and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements. To the extent that the practices, policies or procedures of District, now or in the future, apply to Employee and are inconsistent with the terms of this Agreement, the provisions of this Agreement shall control.

12. **Amendments.** This Agreement may not be amended except in a written document signed by each of the parties. Failure to exercise any right under this Agreement shall not constitute a waiver of such right.

13. **Assignment.** Employee shall not assign any rights or obligations under this Agreement. District may, upon prior written notice to Employee, assign its rights and obligations hereunder.

14. **Severability.** If a court or arbitrator holds any provision of this Agreement to be invalid, unenforceable or void, the remainder of this Agreement shall remain in full force and effect.

15. **Attorneys' Fees.** In any legal action, arbitration or other proceeding brought to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

16. **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of California, with venue proper only in Riverside County, California.

17. **Interpretation.** This Agreement shall be construed as a whole, according to its fair meaning, and not in favor of or against any party. By way of example and not in limitation, this Agreement shall not be construed in favor of the party receiving a benefit or against the party responsible for any particular language in this Agreement. Captions are used for reference



purposes only and should be ignored in the interpretation of the Agreement. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, cancelled, superseded or changed by any oral agreement, course of conduct, waiver or estoppel.

18. **Employee Acknowledgment.** Employee acknowledges that he has had the opportunity to consult legal counsel in regard to this Agreement, that he has read and understands this Agreement, that he is fully aware of its legal effect, and that he has entered into it freely and voluntarily based on his own judgment and not on any representations or promises other than those contained in this Agreement.

The parties have duly executed this Agreement as of the date first written above.

CRAIG MILLER

WESTERN MUNICIPAL WATER DISTRICT



By: 

Tom Evans,  
President of the  
Western Municipal Water District  
Board of Directors

**EXHIBIT "A"**

SEVERANCE AGREEMENT

AND GENERAL RELEASE OF ALL CLAIMS

This Severance Agreement and General Release of All Claims (hereinafter "Agreement") is made and entered into between WESTERN MUNICIPAL WATER DISTRICT (hereinafter "Employer") and CRAIG D. MILLER (hereinafter "Employee"), and is made in light of the following:

1. Employee was employed by Employer as GENERAL MANAGER. Following settlement discussions, the parties hereto have agreed to settle any and all disputes, now in existence, or arising in the future between Employer and Employee, regarding the employment of Employee and the termination thereof.

2. The parties hereto acknowledge that each has denied, and continues to deny, any claims asserted by the other, but that Employer and Employee desire to bring this matter and any related matters to a conclusion and to avoid further incurring of costs and expenses incident to their prosecution and defense. Therefore, the parties make this Agreement, expressly recognizing that the making of this Agreement does not in any way constitute an admission of wrongdoing or liability on the part of either party.

3. In consideration of this Severance Agreement, Employer agrees to pay Employee severance as follows:

(i) Upon hire as General Manager through December 31, 2018: six (6) months of severance pay;

(ii) From January 1, 2019 through December 31, 2019: seven (7) months of severance pay;

(iii) From January 1, 2020 through December 31, 2020: eight (8) months of severance pay; or

(iv) From January 1, 2021 and thereafter: nine (9) months of severance pay.

All applicable employment and payroll taxes will be deducted from the gross severance compensation amount. Employee acknowledges that Employer has paid all wages due, and that any consideration offered as part of the agreement is above and beyond what was owed and paid.

4. In consideration of the foregoing, Employee, on behalf of himself/herself, his/her relatives, heirs, estate, executors, administrators, successors and assigns, does fully release and discharge Employer, its officers, directors, agents, employees, attorneys, subsidiaries, affiliated entities, successors and assigns (hereinafter "Employer and/or its Agents") from all actions, causes of action, claims, judgments, obligations, damages, and liabilities of whatsoever kind and character, including, but not limited to, any actions, causes of action, claims, judgments, obligations, damages, or liabilities relating to his/her employment with Employer, and the causes, procedures and circumstances surrounding the termination of his/her employment with Employer, including, but not limited to, those arising out of any claims for violation of any alleged contract, express or implied; any covenant of good faith and fair dealing, whether express or implied; any tort or any federal, state, or local statute or regulation, including, but not limited to, violation of First Amendment, defamation, invasion of privacy, interference with prospective economic advantage, intentional or negligent infliction of emotional distress, employment discrimination under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, Americans with Disabilities Act, the Genetic Information Non-Discrimination Act, the California

Fair Employment and Housing Act, the California Labor Code, or under any other applicable federal, state or local fair employment laws on the basis of race, color, sex, national origin, religion, age, handicap, disability, medical condition, marital status, sexual orientation, genetic characteristics, gender identity, military and veteran status or other protected class, and/or violation of any other statutes, rules, regulations or ordinances, whether federal, state or local.

Employee represents and warrants that he/she has not assigned any such action, cause of action, claim, judgment, obligation, damage, or liability or authorized any other person or entity to assert such on his/her behalf. Further, Employee agrees that under this Agreement, he/she waives any claim for damages incurred at any time after the date of this Agreement because of alleged continuing effects of any alleged unlawful acts or omissions involving Employer and/or its Agents which occurred on or before the date of this Agreement and any right to sue for injunctive relief against the alleged continuing effects of alleged acts or omissions occurring prior to the date of this Agreement.

5. Notwithstanding paragraph 4, released claims shall not include any claims based on obligations created by or reaffirmed in this Agreement.

6. Employee understands and expressly agrees that this Agreement extends to all claims of every nature and kind whatsoever, known or unknown, suspected or unsuspected, past or present, and all rights under Section 1542 of the California Civil Code are hereby expressly waived. Such Section reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his/her favor at the time of executing the release, which if known by him/her must have materially affected his/her settlement with the debtor.

7. Employee understands and agrees that, as a condition of this Agreement, he/she shall not be entitled to any employment with Employer, or any successor, and further agrees not to institute or join any action, lawsuit, or proceeding against Employer and/or its Agents, or any successor, for any failure to employ Employee.

8. Employee agrees not to initiate, or proceed with, any actions, causes of action, claims, etc. that could be or that have been asserted against Employer and/or its Agents arising out of his/her employment with Employer or the termination thereof, in any forum, whatsoever. To the extent that any such actions, causes of action, claims, etc. are, or become, pending in any forum, whatsoever, Employee agrees to disclose such and to execute all documents necessary for the withdrawal of such actions, causes of action, claims, etc., with prejudice, forthwith.

Further, Employee specifically represents that he/she will not in the future participate in, instigate, provide information in connection with (unless required by law to do so) or otherwise assist any other person or entity in any dispute or litigation by any party, person or entity in any state or federal court or in any proceeding before any local, state or federal agency or body, regarding events occurring prior to the date this Agreement is fully executed, claiming that Employer and/or its Agents have violated any local, state or federal laws, statutes, ordinances or regulations, or any other wrongful conduct based upon events occurring prior to the date of the execution of this Agreement.

9. Age Discrimination Claims.

Employee understands and agrees that, by entering into this Agreement, (i) except for claims arising after the date this Agreement is signed, Employee is waiving any rights or claims Employee might have under the Age Discrimination in Employment Act, as amended by the Older Workers Benefit Protection Act; (ii) Employee has received consideration beyond that to which

he/she was previously entitled; (iii) Employee has been advised to consult with an attorney before signing this Agreement; and (iv) Employee has been offered the opportunity to evaluate the terms of this Agreement for not less than 21 days prior to his/her execution of the Agreement, even though Employee may elect to sign this Agreement before said period of consideration expires. Employee agrees that changes, whether material or immaterial, do not restart the 21-day consideration period.

Employee may revoke this Agreement (by written notice to Employer's Labor Attorney, Bradley Neufeld) for a period of seven days after his/her execution of the Agreement, and it shall become enforceable only upon the expiration of this revocation period without prior revocation by Employee.

10. Employee represents and warrants that he/she will keep the existence of this Agreement and its terms completely confidential, he/she will not disclose any information concerning this Agreement to anyone other than his/her immediate family and professional representatives who will be informed of and agree to be bound by this confidentiality clause. Disclosure of the existence of this Agreement or its terms shall constitute a material breach of this Agreement.

11. Employee agrees to immediately return all Employer property including, but not limited to, documents, equipment and money that he/she has in his/her possession or control.

12. If any provision of this Agreement, or its application to any person, place or circumstance, is held by an arbitrator or a court of competent jurisdiction to be invalid, unenforceable, or void, such provision shall be enforced to the greatest extent permitted by law, and the remainder of this Agreement, and such provision as applied to other persons, places and circumstances, shall remain in full force and effect.


13. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, all of which together shall constitute one and the same instrument. The parties further agree that facsimile or scanned signatures will constitute original signatures for purposes of execution of this Agreement.

14. EMPLOYEE FURTHER STATES THAT HE/SHE HAS CAREFULLY READ THIS SEVERANCE AGREEMENT; THAT HE/SHE UNDERSTANDS THAT THE CONSIDERATION TO BE GIVEN TO HIM/HER UNDER THIS AGREEMENT IS IN ADDITION TO WHAT HE/SHE IS ENTITLED TO IN THE ABSENCE OF THIS AGREEMENT; THAT HE/SHE HAS HAD THE OPPORTUNITY TO HAVE IT FULLY EXPLAINED TO HIM/HER BY AN ATTORNEY OF HIS/HER CHOICE; THAT ONCE EFFECTIVE, THIS AGREEMENT IS FINAL AND BINDING; THAT THE ONLY PROMISES MADE TO HIM/HER TO SIGN THIS SEVERANCE AGREEMENT AND GENERAL RELEASE OF ALL CLAIMS ARE THOSE STATED ABOVE; AND THAT HE/SHE IS SIGNING IT VOLUNTARILY.

Dated: 11/16/17

  
CRAIG MILLER  
GENERAL MANAGER  
WESTERN MUNICIPAL WATER  
DISTRICT

Dated: 11/27/17

  
BOARD PRESIDENT  
WESTERN MUNICIPAL WATER  
DISTRICT