

**EMPLOYMENT AGREEMENT**

This AGREEMENT, effective August 1, 2021 ("Effective Date"), is entered into by and between DIABLO WATER DISTRICT, a public agency duly formed under California law ("District"), and DANIEL MUELRAETH, an individual ("Employee").

**Recital**

WHEREAS, Employee commenced employment on December 3, 2018 as Assistant General Manager and then as General Manager and Secretary of District effective January 1, 2019;

WHEREAS, District desires to continue employment of Employee as General Manager and Secretary, and Employee desires to continue as District's General Manager and Secretary; and

WHEREAS, District's Board of Directors ("Board"), as the appointing power of Employee, and Employee desire to agree in writing to the terms and conditions of Employee's employment with District on terms and conditions as stated herein, with this Agreement to supersede in its entirety the Employee's prior employment agreement dated October 25, 2018.

**Terms and Conditions****1. EMPLOYMENT AND DUTIES.**

(a) District agrees to employ Employee as General Manager and Secretary of District as of the Effective Date, at which time Employee shall continue to perform the functions and duties of the General Manager and Secretary of District as specified in the California Water Code and to perform other legally permissible and proper duties and functions as the Board of Directors may from time-to-time assign. Such employment shall be "at will," meaning that the Employee serves at the pleasure of the Board and may be released from employment at any time, with or without cause, as set forth in this Agreement.

(b) Employee shall perform his duties to the best of Employee's abilities in accordance with the highest professional ethical standards of the profession and shall comply with all proper and duly issues rules and regulations established by District.

(c) Employee shall not engage in any activity which is or may become a conflict of interest, prohibited contract, or which may create an incompatibility of office as defined under California law. Employee must complete disclosure forms required by law.

(d) Employee is an exempt employee and in accordance with Regulation 106, Employee shall have a 9/80 work schedule (80 regular hours in a two-week period over 9 days) but is expected to engage in those hours of work that are necessary to fulfill the obligations of Employee's position. However, it is recognized that Employee must devote significant time to the business of District outside of District's customary office hours, and to that end the Employee's schedule of work each day and week shall vary in accordance with the work required to be performed and in accordance with any specific direction provided by the Board.

## 2. TERM.

(a) The term of this Agreement shall be from August 1, 2021 and continue until such time that the Agreement is either renegotiated by the parties or terminated as provided in paragraph 3 below.

(b) Employee shall not engage in any employment or business other than Employee's position with District during his term of employment and any renewals. The aforementioned shall not preclude the Employee from having investments that do not encroach on his role as the General Manager and Secretary of District. Employee warrants that there are no agreements or arrangements, whether written or oral, in effect that would prevent Employee from

rendering exclusive services to District during the term of this Agreement and that Employee has not and will not make any commitment or do any act in conflict with this Agreement.

3. RESIGNATION AND TERMINATION.

(a) Employee may resign at any time with or without cause and agrees to give District at least sixty (60) days advance written notice of the effective date of Employee's resignation.

(b) District may at any time terminate Employee upon thirty (30) days advance written notice, however District shall not commence the termination process of Employee for at least ninety (90) days following the election or appointment of new members to the District's Board unless such termination is with cause. Subject to paragraph 4 below, and at District's sole option, this 30-day notice period may be satisfied by 30-days actual notice or payment of 30-days' salary with an immediate separation.

(c) The parties recognize and affirm that: (1) Employee is an "at will" Employee whose employment may be terminated by District without cause, and (2) there is no express or implied promise made to Employee for any form of continued employment for any particular period of time, other than as provided for by this Agreement. This Agreement is the sole and exclusive basis for an employment relationship between Employee and District.

(d) The decision to terminate shall be made in closed session and confirmed in open session at that same Board meeting, as required or permitted by applicable law. In recognition of Employee's professional status and integrity, Employee and the Board shall endeavor to prepare a joint public statement to be made by the Board at the public meeting when termination is confirmed.



(e) Employee may choose to resign his office instead of being terminated if the Board decides to terminate Employee. In such event, the public announcement as provided for in paragraph 3(d) above will note Employee has resigned, and paragraph 3(d) remains applicable.

4. SEVERANCE PAY.

So long as Employee is still willing and able to perform the duties of General Manager and Secretary, District agrees to pay Employee a cash payment equal to four (4) months' salary paid at District's sole option in either a lump sum or pro rata in four (4) equal installments over a four-month period. To be eligible for such payment, and as an express condition precedent to receiving such payment, Employee shall execute (and not revoke) a full and complete release of any and all claims, to the full extent permitted by law, against District, its directors, officers, employees, agents, consultants and affiliated entities.

Provided however, if Employee is terminated because of conviction of a felony or any criminal offense involving moral turpitude or because of Employee's willful breach or habitual neglect of Employee's duties under this Agreement, then District shall have no obligation to continue the employment of Employee or to pay the severance set forth in this paragraph. Further, if the contract is permitted to expire on its own terms, no severance payment shall be due.

5. SALARY.

(a) DISTRICT agrees to pay Employee \$21,866 in gross salary per month for Employee's services, subject to customary withholdings and payroll taxes.

(b) Thereafter and subject to an annual evaluation of performance, District may (in its sole discretion) increase Employee's compensation effective July 1 of each year. Not more than once annually, Employee shall be entitled to any standard cost of living adjustment provided to the other employees of District.

(c) The salary compensation provided in this paragraph shall not be decreased unless such decrease is applied to all employees.

6. CAR ALLOWANCE.

Employee's duties require that he shall have the use of an automobile at all times during Employee's employment with District. District shall provide a cash car allowance of \$400.00 per month to Employee. District shall allow Employee to charge Employee's vehicle at District locations where solar offsets electric power consumption.

7. SUPPLEMENTAL BENEFITS.

(a) District shall also provide the Employee the same categories of benefits as provided to other District employees and as they may be amended from time to time. All actions taken by District relating to benefits for employees shall be considered actions granting the same benefits to Employee. As used herein, benefits include but are not limited to retirement, holidays, health insurance, vision insurance, dental insurance, and disability insurance in accordance with District benefit program policies as currently exist or as be amended from time to time, however if any amended policy reduces Employee's current benefits, then such benefit(s) shall remain as current policy(ies) provide unless doing so violates applicable law.

(b) District shall provide Employee with a life insurance, accidental death and dismemberment policy in the amount of \$250,000.00.

(c) District shall provide Employee with a monthly contribution to Employee's 457 deferred compensation plan in the amount of \$1,000.

8. VACATION AND SICK LEAVE.

(a) Employee shall continue to accrue vacation time pursuant to District Regulation No. 106, with the ten (10) years that were added to the period of employment for the

purpose of calculating Employee's annual vacation entitlement in Employee's prior employment agreement with District remaining in place as part of Employee's vacation time bank.

(b) Employee shall continue to accrue sick leave in accordance with Regulation Number No. 106, with the 160 hours of sick leave that were granted to Employee as part of Employee's prior employment agreement with District remaining in place as part of Employee's sick leave.

9. ADMINISTRATIVE LEAVE.

Employee shall continue to accrue sick leave in accordance with Regulation Number No. 106.

10. PROFESSIONAL DEVELOPMENT.

(a) DISTRICT agrees to budget and pay for the professional dues and subscriptions that the Board deems reasonably necessary for the General Manager and Secretary's continued and full participation in national, state, and local associations and organizations.

(b) DISTRICT agrees to budget and pay the travel and sustenance expenses that the Board deems reasonably necessary that are associated with General Manager and Secretary's professional and official travel, meetings, and occasions adequate to continue professional development. All expenses shall be documented with receipts.

11. PERFORMANCE EVALUATION.

The Board shall evaluate Employee's performance annually by June 30.

12. OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

The Board, by resolution, shall fix any other terms and conditions of employment, as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with provisions of this Agreement or applicable law.



13. NOTICES

Any notice required by this Agreement shall be in writing and either issued in person or by first-class mail with the postage prepaid and addressed as follows:

TO DISTRICT:

President of the Board of Directors  
Diablo Water District  
P. O. Box 127  
Oakley, CA 94561

TO EMPLOYEE:

Daniel Muelrath  
General Manager and Secretary  
Diablo Water District  
P. O. Box 127  
Oakley, CA 94561

14. CONFIDENTIALITY.

During this Agreement, Employee may be exposed to or possess proprietary confidential and trade secret information of District. Employee agrees not to use such information either for Employee's personal benefit or to share with anyone or any organization not entitled to any such information either during the term of this Agreement or thereafter.

15. ENTIRE AGREEMENT.

This Agreement is the final expression of the complete agreement of the parties with respect to the matters specified herein and supersedes all prior oral or written understandings. Except as prescribed herein this Agreement cannot be modified except by mutual agreement signed by the parties.

16. ASSIGNMENT.

This Agreement is not assignable by either District or Employee.

17. SEVERABILITY.

In the event that any provision of the Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the parties, the remainder of the Agreement shall remain in full force and effect unless the parts found to be void are wholly inseparable from the remaining portion of the Agreement.

18. COUNTERPARTS.

This Agreement shall be executed simultaneously in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

19. GOVERNING LAW

This Agreement shall be governed by the laws of the State of California, without regard to conflicts of laws principles.

IN WITNESS WHEREOF, DISTRICT has caused this Agreement to be signed and executed in its behalf by its President of the Board of Directors. It has also been executed by Employee.



Daniel Muelrath, Employee

7-29-2021

Date



Paul Seger, President  
Board of Directors  
Diablo Water District

7-29-2021

Date