

**EMPLOYMENT AGREEMENT  
FOR THE POSITION OF  
GENERAL MANAGER**

**THIS EMPLOYMENT AGREEMENT** ("*Agreement*") is made and entered into as of December 31, 2019 ("*Effective Date*"), by and between San Bernardino Valley Municipal Water District, a California municipal water district ("*DISTRICT*"), and Heather Dyer ("*DYER*"), an individual.

**RECITALS**

A. DISTRICT, by and through the Board of Directors, desires to employ DYER as General Manager of District; and

B. DYER desire to be employed as General Manager in consideration of and subject to the terms and conditions set forth in this Agreement.

**OPERATIVE PROVISIONS**

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties agree as follows:

**1. Position, Duties, and Term.**

1.1. Position and Duties. DYER accepts employment with DISTRICT as its General Manager and shall perform all duties, services, acts, and functions necessary and proper to lawfully manage and conduct business of DISTRICT in accordance with all legal requirements and the policies, procedures, rules, and regulations established by DISTRICT's Board of Directors. DYER's responsibilities shall include, but are not limited to, day-to-day leadership of the DISTRICT, direct work supervision of all DISTRICT personnel, management of all DISTRICT financial matters, attending meetings and workshops of the Board of Directors, and managing and conducting all business of DISTRICT. DYER shall report directly to the Board of Directors and shall perform additional duties assigned and/or delegated to her necessary to achieve the Board's goals and objectives in a manner that protects and enhances the long-term financial capacity of DISTRICT.

1.2. Term.

a. DYER's employment as General Manager shall commence on the Effective Date and shall continue through December 31, 2022 ("*Term*"). The Term may be extended as provided in Section 1.2.b below unless DYER is terminated prior to the expiration of the Term pursuant to the provisions in Section 4 of this Agreement.

b. This Agreement shall automatically renew for three (3) year increments at the end of the Term unless either party gives to the other written notice not to renew this Agreement no less than sixty (60) calendar days prior to the expiration of the then-current Term and provided the Board of Directors has not authorized renewal of this Agreement for a term of less than three (3) years. Each party to this Agreement may elect not to extend this Agreement with or without cause.

c. DYER acknowledges that she is an at-will employee of DISTRICT who shall serve at the pleasure of the Board of Directors at all times during the period of her service under this Agreement. Nothing in this Agreement is intended to, or does, confer upon DYER any right or any property interest in continued employment, or any due process right to a hearing before or after a decision by the Board of Directors to terminate her employment except as expressly provided in Section 4. Nothing in this Agreement shall prevent DYER from resigning from this position subject only to the provision set forth in Section 4.4 of this Agreement.

d. During the course of her employment, DYER shall not accept any other employment or engage, directly or indirectly, in any other business, commercial, or professional activity that is or may be competitive with DISTRICT, that might cause a conflict-of-interest with DISTRICT, or that might otherwise interfere with the business or operation of DISTRICT or the satisfactory performance of DYER's duties as General Manager.

## **2. Compensation.**

2.1. Salary. For all services performed by DYER as the General Manager under this Agreement, DISTRICT shall pay DYER a salary of \$238,776.00 per year paid according to the payroll schedule in place for DISTRICT employees. DYER shall be entitled to all benefits provided to other DISTRICT employees except as specified below. For clarity, this Agreement shall not affect DYER's original hire date with DISTRICT and DYER shall be entitled to all such benefits commensurate with her original hire date.

2.2. Vacation. DYER shall be entitled to twenty (20) days of vacation each calendar year accrued pro rata throughout the year. DYER's vacation accrual and payments on termination of employment shall be the same as provided to other DISTRICT employees.

2.3. Sick Leave. DYER shall be entitled to sick leave in the same amounts and with the same accrual rights and payments on termination of employment as provided to other DISTRICT employees.

2.4. Automotive Allowance. DYER shall be entitled to an automobile allowance of \$850.00 per month as compensation for the use of personal automobile(s) for DISTRICT business. DYER shall operate any vehicle used in connection with the performance of her duties as General Manager in a safe manner and otherwise in observance of all established traffic safety laws and shall maintain a valid California driver's license during the period of employment. In addition, DYER shall, at her sole expense, acquire and maintain in full force and effect during the Term of this Agreement, valid automobile liability insurance providing liability limits for bodily injury and property damage of not less than \$500,000, and uninsured and underinsured motorist coverage of at least \$500,000, combined single limit per occurrence. DISTRICT shall be expressly covered as an additional insured on all insurance required under this Agreement and endorsements evidencing such coverage shall be provided to DISTRICT.

## **3. Performance Evaluation.**

3.1. During the Term of this Agreement, the Board of Directors shall review and evaluate DYER's performance annually in the month of January or as soon as reasonably possible thereafter, provided it may in its discretion review and evaluate DYER's performance more often if the Board of Directors deems it necessary.

3.2. Cost of living adjustments and other increases in salary shall be limited to the same amounts provided to other DISTRICT employees in accordance with current DISTRICT Policy, provided that any future salary increases or performance awards based on DYER's Performance Evaluation will be at the sole discretion of the Board of Directors.

3.3. DISTRICT may choose to provide contributions to DYER's 457 Account in lieu of merit increases which are contingent on a satisfactory Performance Evaluation.

#### 4. **Termination.**

4.1. DISTRICT may terminate DYER's employment and this Agreement without cause at any time. In the event DYER is terminated without cause, DISTRICT agrees, upon receipt of a Comprehensive General Release and Settlement Agreement signed by DYER, to pay DYER a lump sum cash payment equal to three (3) months of salary only (no benefits) as severance pay.

4.2. DISTRICT may terminate DYER's employment and this Agreement for cause at any time for any of the following: commission of an act involving moral turpitude, conviction of a felony or other crime punishable by jail or imprisonment (or entry of a plea of guilty or *nolo contendere*), possession of, use of, or working while under the influence of alcoholic beverages or other non-prescribed controlled substances or abuse/misuse of lawfully prescribed controlled substances during working hours, engaging in an actual conflict of interest, unauthorized absence for more than three (3) days, or material breach of this Agreement.

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

a. "Abuse of office or position" means either:

i. An abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority; or

ii. A crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

4.4. At any time, DYER may terminate her employment for any reason by providing DISTRICT with ninety (90) days' advance written notice. DISTRICT shall have the option in its complete discretion to make such termination effective at any time prior to the end of such notice period; thereafter, all of DISTRICT's obligations under this Agreement shall cease, provided that DYER shall be paid all amounts due her hereunder as of the effective date of termination.

**5. Conflict of Interest.**

DYER represents and warrants to DISTRICT that she presently has no interest, and represents that she will not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or interfere with performance of her services under this Agreement.

**6. Dispute Resolution; Arbitration.**

6.1. If DYER has any grievance or complaint under this Agreement or arising out of this employment, DYER shall first attempt to resolve the grievance or dispute by use of the procedures contained in DISTRICT's Employee Handbook, office policies, and/or procedures in effect from time to time. This includes, but is not limited to, claims for any discrimination, sexual harassment, wrongful termination, or other alleged misconduct that is in violation of and remediable under any state or federal law as more particularly described in Section 6.1.c. DYER expressly waives any right to file suit or pursue any other administrative or legal action to remedy any alleged wrong unless and until DYER has exhausted all the administrative remedies available under the applicable policies of DISTRICT.

a. If DYER's grievance or dispute has not been resolved through the administrative process of DISTRICT, and if DYER chooses to pursue the grievance or dispute, DYER agrees that the grievance or dispute shall be submitted to binding arbitration before a neutral arbitration panel, as hereinafter provided, on the express written request of either party.

b. The arbitrability of any controversy, dispute or claim under this Agreement shall be determined by application of the substantive provisions of the Federal Arbitration Act (9 U.S.C. Sections 1 and 2) and by application of the procedural provisions of the California Arbitration Act. Arbitration shall be the exclusive method for resolving any dispute; provided, however, that either party may request provisional relief from a court of competent jurisdiction, as provided in California Code of Civil Procedure Section 1281.8.

c. The claims which are to be arbitrated under this Agreement include, but are not limited to, claims for wages and other compensation, claims for breach of contract (express or implied), claims for violation of public policy, wrongful termination, tort claims, claims for unlawful discrimination and/or harassment (including, but not limited to, race, religious creed, color, national origin, ancestry, physical disability, mental disability, gender identity or expression, medical condition, marital status, age, pregnancy, sex, or sexual orientation) to the extent allowed by law, and claims for violation of any of the federal, state, or other government law, statute, regulation, or ordinance, except for claims for workers' compensation, unemployment insurance benefits, and petitions or charges that could be brought before the National Labor Relations Board.

d. DYER and DISTRICT will select an arbitrator by mutual agreement. If DYER and DISTRICT are unable to agree on a neutral arbitrator, either party may elect to obtain a list of arbitrators from the Judicial Arbitration and Mediation Service (JAMS) or other reputable dispute resolution organization. DYER and DISTRICT will alternately strike names from the list, with the employee striking the first name, until only one name remains. The remaining person shall be the arbitrator.

e. The demand for arbitration must be in writing and must be made by the aggrieved party within the statute of limitations period provided under applicable California and/or federal law for the particular claim. Failure to make a written demand within the applicable

statutory period constitutes a waiver to raise that claim in any forum. Arbitration proceedings will be held in the County of San Bernardino.

f. The arbitrator shall apply applicable California and/or federal substantive law to determine issues of liability and damages regarding all claims to be arbitrated, and shall apply the California Evidence Code to the proceeding. The parties shall be entitled to conduct reasonable discovery, including conducting depositions, requesting documents, and requesting responses to interrogatories, and the arbitrator shall have the authority to determine what constitutes reasonable discovery. The arbitrator shall hear motions for summary disposition as provided in the California Code of Civil Procedure.

g. Within thirty (30) days following the hearing and the submission of the matter to the arbitrator, the arbitrator shall issue a written opinion and award which shall be signed and dated. The arbitrator's award shall decide all issues submitted by the parties, and the arbitrator may not decide any issue not submitted. The arbitrator shall prepare in writing and provide to the parties a decision and award which includes factual findings and the reasons upon which the decision is based. The arbitrator shall be permitted to award only those remedies in law or equity which are requested by the parties and allowed by law.

h. The decision of the arbitrator shall be binding and conclusive on the parties and cannot be reviewed for error of law or legal reasoning of any kind. Judgment upon the award rendered by the arbitrator may be entered in any court having proper jurisdiction.

i. The cost of the arbitrator and other incidental costs of arbitration that would not be incurred in a court proceeding shall be borne by DISTRICT. The parties shall each bear their own costs and attorneys' fees in any arbitration proceeding; provided, however, that the arbitrator shall have the authority to require either party to pay the costs and attorneys' fees of the other party during the arbitration, as is permitted under federal or state law, as a part of any remedy that may be ordered.

BOTH DISTRICT AND DYER UNDERSTAND THAT BY USING ARBITRATION TO RESOLVE DISPUTES, THEY ARE GIVING UP ANY RIGHT THAT THEY MAY HAVE TO A JUDGE OR JURY TRIAL WITH REGARD TO ALL ISSUES CONCERNING EMPLOYMENT.

j. If any term, provision, covenant or condition of this arbitration provision is held by a court of competent jurisdiction or an arbitrator to be invalid, void, or unenforceable, the remaining terms and provisions of this provision will remain in full force and effect and shall in no way be affected, impaired or invalidated.

## 7. **Integration.**

This Agreement is intended to be the final, complete, and exclusive statement of all of the terms of DYER's employment with 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 DYER and it may not be contradicted by evidence of any prior or contemporaneous statements or agreements.

**8. Governing Law.**

This Agreement shall be governed and construed in accordance with the laws of the State of California, with venue proper only in San Bernardino County, State of California.

**9. Acknowledgment.**

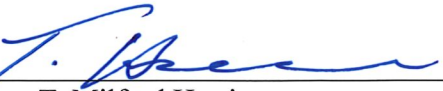
DYER acknowledges that she has had the opportunity to consult with her own legal counsel in regard to this Agreement, that she has read and understands this Agreement, that she is aware of its legal effect, and that she has entered into it freely and voluntarily and based on her own judgment and not on any representations or promises other than those contained in this Agreement.

*[Signature Page Follows]*

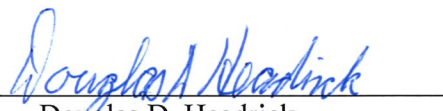
IN WITNESS WHEREOF, DISTRICT has caused this Agreement to be signed and executed on its behalf by its Board President and DYER has signed and executed this Agreement as of the Effective Date.

Dated: 12/20, 2019.

**SAN BERNARDINO VALLEY MUNICIPAL  
WATER DISTRICT**


By:   
T. Milford Harrison  
President

**ATTEST:**

By:   
Douglas D. Headrick  
Secretary

Dated: 12/20, 2019.

**HEATHER DYER**

  
Heather Dyer