

RESOLUTION NO. 2024-44

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE SAN BENITO COUNTY WATER DISTRICT
APPOINTING ASSISTANT GENERAL MANAGER**

WHEREAS, the San Benito County Water District is actively recruiting to fill the vacant position of Assistant General Manager;

WHEREAS, Brett Miller has applied for the position of Assistant General Manager and meets all necessary qualifications for that position;

WHEREAS, the Board of Directors has met with Mr. Miller in closed session and desires to appoint him as Assistant General Manager.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the San Benito County Water District that Brett Miller is hired as Assistant General Manager pursuant to the employment agreement attached hereto. District Counsel and the President of the Board are authorized to execute the agreement on behalf of the District.

BE IT FURTHER RESOLVED that the President of the Board is authorized to sign said Resolution, on behalf of this Board and District.

PASSED AND ADOPTED by the Board of Directors of the San Benito County Water District a regular meeting, this Wednesday, October 30, 2024 by the following vote:

AYES: DIRECTORS: Shelton, Williams, Flores, Tonascia & Wright

NOES: DIRECTORS:

ABSTAIN: DIRECTORS:

ABSENT: DIRECTORS:

*(Signature of presiding Board member
Attested by Board Secretary
Resolution # 2024-44)*

/s/Andrew Shelton
Andrew Shelton
President

ATTEST: */s/Barbara L. Mauro*
Barbara L. Mauro
Board Secretary

**EMPLOYMENT AGREEMENT BETWEEN
SAN BENITO COUNTY WATER DISTRICT AND BRETT MILLER**

THIS AGREEMENT is made and entered into this 30th day of October, 2024 by and between the San Benito County Water District ("District") and BRETT MILLER (collectively referred to as "Parties"), both of whom understand and agree to the following:

RECITALS

WHEREAS, the District is a political subdivision of the State of California; and

WHEREAS, the District desires to employ BRETT MILLER to serve as the Assistant General Manager of San Benito County Water District; and

WHEREAS, the District finds that BRETT MILLER possesses the specialized skills necessary and required for the Assistant General Manager; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and BRETT MILLER agree as follows:

SECTION 1. AGREEMENT TO EMPLOY

1. APPOINTMENT. The District Board of Directors hereby appoints BRETT MILLER as Assistant General Manager, subject to the terms and conditions of this Agreement.
 - a. BRETT MILLER agrees to accept employment as described pursuant to the terms and conditions of this Agreement.
 - b. BRETT MILLER represents and warrants that all information regarding qualifications, all applications and resumes, and all additional background information provided, verbally or in writing, by BRETT MILLER to the District and its representatives, including all of their respective background check vendors, at any and all times during the course of the recruiting process for the Assistant General Manager prior to the execution of this Agreement, were truthful, accurate, and complete, and did not omit any facts necessary to have an accurate understanding of BRETT MILLER's background, skills, and experience. This representation is material to the District's willingness to enter into this Agreement.
 - c. BRETT MILLER agrees to remain in the exclusive employ of the District during the term of this Agreement and neither to accept other employment nor to become employed by any other employer unless his employment with the District is terminated. The term "employment" shall not be

construed to include occasional teaching, writing, consulting or military reserve service performed on BRETT MILLER' s time off.

SECTION 2. EFFECTIVE DATE AND TERM

2. The effective date of this Agreement shall be November 1, 2024. This Agreement shall remain in effect for a period of 2 years unless otherwise terminated pursuant to the provisions stated herein. At the end of the initial term, this Agreement may be extended upon a mutual written agreement of the Parties. The agreement is effective if neither party terminates, pending renewal by the Parties. BRETT MILLER's first day of employment and appointment as Assistant General Manager will be November 1, 2024.

3. The Assistant General Manager is not subject to civil service or merit system rules, and BRETT MILLER shall be an at-will employee and serve at the pleasure of, and may be dismissed at any time at the will of the District Board of Directors, with or without cause, and with or without any period of notice.

SECTION 3. DUTIES

4. BRETT MILLER shall perform duties under the Assistant General Manager job description, and as directed by the Board of Directors, BRETT MILLER shall perform all duties hereunder in a manner consistent with the level of competency, ethics and avoidance of actual or potential conflicts of interest, and standard of care normally observed by a person employed as Assistant General Manager of a California water district.

5. The Assistant General Manager requires maintenance of a full-time work schedule, including presence in the District's office each business day, subject to business travel and vacation and other permitted personal use time and reasonable flexibility with respect to the occasional need to work remotely. BRETT MILLER is expected to engage in those hours of work that are necessary to fulfill the obligations of the Assistant General Manager.

SECTION 4. COMPENSATION

6. District shall compensate BRETT MILLER with an annual salary of \$230,000, payable in the same manner and time as are all other employees of District. Future COLA and merit increases are subject to negotiation.
7. BRETT MILLER is an exempt employee under the Fair Labor Standards Act, and shall not be entitled to receive any overtime pay, compensatory time, or other premium pay or compensation.
8. BRETT MILLER 's salary shall be subject to withholding and other applicable taxes and shall be payable to BRETT MILLER on a pro rata basis at the same time as other employees of the District are paid.

SECTION 4. DEFERRED COMPENSATION

9. The District agrees to provide access for BRETT MILLER to make employee contributions to a Section 457 Deferred Compensation Plan account in accordance with Section 457 rules and contribution limits.

SECTION 6. PENSION

10. BRETT MILLER as a Public Employees' Pension Reform Act (PEPRA) member of the California Public Employee Retirement System (CalPERS). The District's retirement benefit factor of 2% @ 62. BRETT MILLER shall pay the required employee contribution.

SECTION 7. FRINGE BENEFITS

11. The District agrees to provide BRETT MILLER with the following benefits:
 - a. Life Insurance. The District will pay 100% of the cost of basic life insurance coverage up to the maximum \$150,000.
 - b. Management Leave. BRETT MILLER will receive a total of 80 hours of management leave per year, provided as a lump sum on January 1st of each calendar year, pro-rated at the time of hire.
 - c. Sick Leave. BRETT MILLER will accrue sick leave at a rate of 96 hours maximum per year. Sick leave accrual is capped at one thousand forty (1040 hours).
 - d. Holiday Schedule. BRETT MILLER will have the same holiday schedule as the Executive Group set forth in the District's Personnel Rules and Regulations.
 - e. Retiree Additional Benefit. For those employees retiring from the District through a regular service retirement from CalPERS within one hundred twenty (120) days of separation from

District employment, and who are fifty-five (55) years of age or older at the time of retirement, the District will make the following monthly payments toward retiree health insurance coverage, in addition to the minimum employer contribution required by PEMH CA:

District Years of Service	Age 55	Age 60	Age 65
10-14 years	\$100.00	\$130.00	\$195.00
15-19 years	\$135.00	\$180.00	\$270.00
20+ years	\$175.00	\$232.00	\$348.00

Employees will have no contractual or vested right to receive the Retire Additional Benefit. The District reserves the right to modify and/ or eliminate the benefit at any time.

f. Cell Phone Allowance. Managers required to use a mobile device for business use related to their functional area, are eligible to receive a monthly stipend of fifty-one dollars (\$51) for an employee purchased, owned and operated cellular phone and/ or wireless PDA device. Allowances are paid through the payroll system upon receipt of the designated form.

g. Additional District Benefit Contribution. Consistent with employees in the Management / Confidential/ Professional group employees in the Executive Management Group of the District will be provided an additional contribution toward benefits. The Additional Benefit Contribution is paid on a pay period basis.

The Additional Benefit Contribution is not considered special compensation or reported to CalPERS as special compensation.

Upon annual election by the employee, an employee may receive one of the following contributions:

i. A District contribution of two percent (2%) of the employee's salary (calculated as base pay) paid on a pay period basis; or

ii. Forty (40) hours of vacation leave per year in addition to accrual of vacation hours provided herein. Employees who select this option will have their Earned Vacation Accrual Limit extended by forty (40) hours for the year in which this option is selected.

h. Unpaid Furlough, End of Year Closure and Educational and Technical Certification Incentives. As a member of the Executive Management Group, BRETT MILLER is subject to the Unpaid Furlough Schedule, End of Year Closure and Educational and Technical Certification Incentives consistent with the Management Confidential and Professional (MCP) group.

12. In addition to those same benefits provided to the Management Confidential Professional (MCP) group, BRETT MILLER shall also receive:

a. Health Insurance. The District offers a variety of health plans through the CalPERS Public Employee Hospital and Medical Care Act (PEMHCA) and will pay for 100% of employee + family medical insurance (PERS Gold).

b. Dental Insurance. The District will pay 100% of family plan.

c. Vision Care Plan. The District will pay 100% of family (Plan A)

d. Vacation. BRETT MILLER will accrue vacation at the rate of 120 hours per year with a maximum accrual of 440 hours, with 40 hours accrued upon the start date. Vacation is accruable on a bi-weekly basis and subject to year-end cash out consistent with that provided for the MCP Compensation Resolution.

e. Retirement Health Savings Account (RHSA). Consistent with the Executive Management Compensation Resolution for RHSA, the District will establish a RHSA for BRETT MILLER. Contributions, vesting, and distributions are the same as others in the Executive Management Group.

g. Professional Licensing and Training: The District shall pay for the cost of registration and travel for BRETT MILLER to attend the following annual out-of-office trainings, attendance at which shall be considered normal employment time: ACWA and ACWA JPIA; Bond Buyer's Conference; CALPELRA Annual Conference; PARMA Annual Conference; CSMFO Conference; GFOA Conference.

f. Except as otherwise provided herein, including subsequent amendments to this agreement, the fringe and supplemental benefits provided in the District's Compensation Resolution for MCP employees will be provided to employees in the Executive Management group in the same manner as provided to management employees in the District.

SECTION 8. PERFORMANCE EVALUATION

13. The Board of Directors of the District and the General Manager shall review and evaluate the performance of BRETT MILLER at least once annually. The annual review and evaluation shall be in accordance with specific criteria developed jointly by the Board of Directors, the General Manager, and BRETT MILLER. Such criteria may be added to or deleted as the Board of Directors and General Manager may from time to time determine in consultation with the BRETT MILLER, provided, however, that such criteria shall be established within the limits of the resources made available to BRETT MILLER for accomplishment of the identified goals and objectives. At such annual evaluation, the Board of Directors, the General Manager, and BRETT MILLER shall define such goals

and performance objectives which they determine necessarily for the attainment of the District Board of Directors' policy objectives and the District.

14. The Board of Directors, General Manager, and BRETT MILLER shall further establish a relative priority among those various goals and objectives to be reduced to writing. BRETT MILLER agrees that he will act in good faith to assure that he has available those resources reasonably necessary to achieve compliance of identified goals and objectives within the anticipated time frames. In giving effect to the provisions of this section, the District and BRETT MILLER mutually agree to act in good faith and abide by all provisions of applicable law.

SECTION 9. OTHER TERMS AND CONDITIONS.

16. The District Board of Directors, in consultation with BRETT MILLER, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the provisions of this Agreement, any ordinance or resolution of District, or any other applicable law. Except as affected by the express provisions of this Agreement, BRETT MILLER will be subject to all applicable District personnel rules and regulations.

SECTION 10. SEPARATION.

17. BRETT MILLER may resign at any time and agrees to give the General Manager and Board of Directors at least 60 calendar days advance written notice of the effective date of the resignation, unless the Parties otherwise agree in writing. Employee shall not be entitled to any severance if he resigns from the Assistant General Manager position.

18. BRETT MILLER is an at-will employee serving at the pleasure of the Board of Directors. The Board of Directors may remove BRETT MILLER from employment at any time, with or without cause. Specific charges, a statement of reasons, or good cause shall not be required as a basis for dismissal. Dismissal by the Board of Directors shall constitute an immediate termination of this Agreement, except those provisions that expressly survive termination. BRETT MILLER expressly waives and disclaims any right to any pre-termination or post-termination notice and hearing.

19. If the District terminates BRETT MILLER without cause, the District will provide a cash settlement (severance) payment to BRETT MILLER equal to and no more than the monthly salary of BRETT MILLER multiplied by the number of months left on the unexpired contract. However, if the unexpired term of the contract is greater than 3 months, the maximum severance payment shall be an amount equal to the monthly salary of BRETT MILLER multiplied by 3. The cash settlement shall not

include any other noncash items except health benefits, which may be continued for the same duration of time covered in the settlement, or until the BRETT MILLER finds other employment, whichever occurs first.

SECTION 11. ENTIRE AGREEMENT.

20. This Agreement contains the entire agreement between the Parties. No promise, representation, warranty or covenant not included in this Agreement has been or is relied on by any party hereto. If any provision or any portion hereof is held unconstitutional, invalid, or unenforceable, the remainder of this Agreement or portion hereof shall be deemed severable, shall not be affected, and shall remain in full force and effect. This Agreement may only be amended in writing and duly executed by both parties.

SECTION 1 2. NO ASSIGNMENT.

21. This Agreement is not assignable by either District or BRETT MILLER.

SECTION 1 3. WAIVER.

22. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this agreement by other party shall not be deemed a waiver of that term, covenant, or condition nor shall any waiver or relinquishment of that right or power for all or any other times.

SECTION 1 4. PARTIAL INVALIDITY.

23. If any provision in this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall, nevertheless, continue to full force without being impaired or invalidated in any way.

SECTION 1 5. APPLICABLE LAW.

24. This agreement shall be governed by and constructed in accordance with the laws of the State of California.

SECTION 16. NOTICES.

25. Notices pursuant to this Agreement shall be in writing and shall be personally served, given by mail or by overnight delivery. Any notice given by mail shall be deemed given when deposited in the United States Mail, certified and postage prepaid, addressed to the respective parties at:

San Benito County Water District, P.O. Box 899 Hollister, CA 95024

BRETT MILLER:

or such other address as may be given, in writing, to the other party.

SECTION 17. BOARD APPROVAL.

26. This Agreement, including but not limited to the salary and benefits, is subject to approval of the Board of Directors at a duly noticed and agenda'd public meeting and, notwithstanding any other provision of this Agreement, is not effective in any respect until such approval is given. If Board approval is not obtained prior to the Effective Date, the Effective Date shall be the first District business day after Board approval and the parties' execution of this Agreement. This Agreement is subject to public disclosure to the extent required by the California Public Records Act, Cal. Gov't Code §§ 6250 et seq.

IN WITNESS WHEREOF, District and BRETT MILLER have caused this Agreement to be executed on the day and year first above written.

"EMPLOYEE"

SAN BENITO COUNTY WATER DISTRICT

/s/Brett Miller

/s/Jeremy T. Liem

BRETT MILLER

JEREMY T. LIEM

DISTRICT COUNSEL

/s/Andrew Shelton

ANDREW SHELTON

BOARD PRESIDENT