

CONTRACT FOR SERVICES
Between
PACIFIC COUNTY, WASHINGTON
And
THE PACIFIC COUNTY ECONOMIC DEVELOPMENT COUNCIL
AMENDMENT No.1

THIS AMENDMENT No. 1 formally amends that certain Contract for Services made and entered into the 31ST of July, 2015, by and between the Board of Pacific County Commissioners ("BOARD") on behalf of Pacific County ("COUNTY"), and The Pacific County Economic Development Council ("RECIPIENT"), by revising Section 1, FUNDING, Section 6, CONTRACT PERIOD, Section 12, INDUSTRIAL INSURANCE COVERAGE, Section 13, INDEMNIFICATION /HOLD HARMLESS, and Section 21, PUBLIC RECORDS ACT, as follows:

Section 1-FUNDING

Up to eight thousand (\$8,000) dollars per twelve (12) month period beginning July 1, 2015, for a total of twenty-four thousand (\$24,000) dollars, has been pledged within Pacific County Public Facilities Improvement Fund No. 126 for RECIPIENT's personnel expenses to be distributed as follows:

- A maximum of \$8,000 for personnel expenses not covered by other funding sources incurred from July 1, 2015 through June 30, 2016. Invoice and backup documentation **must be received prior to December 1, 2016.**
- A maximum of \$8,000 for personnel expenses not covered by other funding sources incurred from July 1, 2016 through June 30, 2017. Invoice and backup documentation **must be received prior to December 1, 2017.**
- A maximum of \$8,000 for personnel expenses not covered by other funding sources incurred from July 1, 2017 through June 30, 2018. Invoice and backup documentation **must be received prior to December 1, 2018.**

Section 6-CONTRACT PERIOD

The terms of this CONTRACT and the performance of the parties hereto shall commence the 1st day of July, 2015. It will continue in effect through the 31st day of December 2018.

Section 12-INDUSTRIAL INSURANCE COVERAGE

This section is replaced with the following:

Without limiting the RECIPIENT'S indemnification of COUNTY, and at the time of this Amendment of this Contract, RECIPIENT shall obtain, provide and maintain during the term of this CONTRACT, policies or insurance of the type and amounts described below and in a form satisfactory to the COUNTY.

- 1. General Liability Insurance.** RECIPIENT shall maintain commercial general liability insurance with at least as broad as Insurance Services Office form CG 00 0, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.

2. **Professional Liability (Errors & Omissions) Insurance.** RECIPIENT shall maintain professional liability insurance that covers the services to be performed in connection with this Contract, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Contract and RECIPIENT agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Contract.
3. **Workers' Compensation Insurance.** RECIPIENT shall, at its own expense, maintain Workers' Compensation Insurance (statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).
4. **Waiver of Subrogation.** All insurance coverage maintained or procured pursuant to this Contract shall be endorsed to waive subrogation against COUNTY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow RECIPIENT or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. RECIPIENT hereby waives its own right of recovery against COUNTY, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

The RECIPIENT must name the COUNTY as an additional insured. The RECIPIENT agrees that its liability insurance shall be primary and non-contributory to the COUNTY's and that RECIPIENT'S liability insurance policy shall so state.

Section 13-INDEMNIFICATION/HOLD HARMLESS

This section is replaced with the following:

1. **Indemnification by RECIPIENT.** To the fullest extent permitted by law, the RECIPIENT agrees to indemnify, defend and hold the COUNTY and its departments, elected and appointed officials, employees, agents and volunteers, harmless from and against any and all claims, damages, losses and expenses, including but not limited to court costs, attorney's fees and alternative dispute resolution costs, for any personal injury, for any bodily injury, sickness, disease or death and for any damage to or destruction of any property (including the loss of use resulting therefrom) which 1) are caused in whole or in part by any action or omission, negligent or otherwise, of the RECIPIENT, its employees, agents or volunteers or RECIPIENT'S subcontractors and their employees, agents or volunteers; or 2) are directly or indirectly arising out of, resulting from, or in connection with performance of this Contract; or 3) are based upon the RECIPIENT'S or its subcontractors' use of, presence upon or proximity to the property of the COUNTY. This indemnification obligation of the RECIPIENT shall not apply in the limited circumstance where the claim, damage, loss or expense is caused by the sole negligence of the COUNTY. This indemnification obligation of the RECIPIENT shall not be limited in any way by the Washington State Industrial Insurance Act RCW Title 51, or by application of any other workmen's compensation act, disability benefit act or other employee benefit act, and the RECIPIENT hereby expressly waives any immunity afforded by such acts.

The foregoing indemnification obligations of the RECIPIENT are a material inducement to COUNTY to enter into the CONTRACT, are reflected in the RECIPIENT's compensation, and have been mutually negotiated by the parties.

2. **Participation County – No Waiver.** The COUNTY reserves the right, but not the obligation, to participate in the defense of any claim, damages, losses or expenses and such participation shall not constitute a waiver of RECIPIENT's indemnity obligations under the CONTRACT.
3. **Survival of Contractor's Indemnity Obligations.** The RECIPIENT agrees all RECIPIENT's indemnity obligations shall survive the completion, expiration or termination of this CONTRACT.

Section 21-PUBLIC RECORDS ACT

This section is replaced with the following:

This CONTRACT and all public records associated with this CONTRACT shall be available from the COUNTY for inspection and copying by the public where required by the Public Records Act, Chapter 42.56 RCW (the "Act"). To the extent that public records then in the custody of the RECIPIENT are needed for the COUNTY to respond to a request under the Act, as determined by the COUNTY, the RECIPIENT agrees to make them promptly available to the COUNTY. If the RECIPIENT considers any portion of any record provided to the COUNTY under this CONTRACT, whether in electronic or hard copy form, to be protected from disclosure under law, the RECIPIENT shall clearly identify any specific information that it claims to be confidential or proprietary. If the COUNTY receives a request under the Act to inspect or copy the information so identified by the RECIPIENT and the COUNTY determines that release of the information is required by the Act or otherwise appropriate, the COUNTY's sole obligations shall be to notify the RECIPIENT (a) of the request and (b) of the date that such information will be released to the requester unless the RECIPIENT obtains a court order to enjoin that disclosure pursuant to RCW 42.56.540. If the RECIPIENT fails to timely obtain a court order enjoining disclosure, the COUNTY will release the requested information on the date specified.

The COUNTY has, and by this section assumes, no obligation on behalf of the RECIPIENT to claim any exemption from disclosure under the Act. The COUNTY shall not be liable to the RECIPIENT for releasing records not clearly identified by the RECIPIENT as confidential or proprietary. The COUNTY shall not be liable to the RECIPIENT for any records that the COUNTY releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

RECIPIENT agrees to indemnify and, to the greatest extent legally possible, to hold harmless the COUNTY in any action by a third party due to the negligence, recklessness or intentional actions by the RECIPIENT relating to its performance of this CONTRACT. This includes any lawsuit filed by a third party for the COUNTY's allegedly improper release of confidential or proprietary information pursuant to a public records request.

ALL OTHER PROVISIONS of the CONTRACT FOR SERVICES remain in full force and effect as per the CONTRACT dated June 31ST, 2015.

IN WITNESS WHEREOF, the parties hereto have set their hands and the day so noted.

PACIFIC COUNTY
ECONOMIC DEV COUNCIL

PACIFIC COUNTY
BOARD OF COUNTY COMMISSIONERS

Paul Philpot, Exec. Director Date

Steve Rogers, Chairman

APPROVED AS TO FORM

Frank Wolfe, Commissioner

Mark McClain
Prosecuting Attorney

Lisa Ayers, Commissioner

ATTEST:

Marie Guernsey, Clerk of the Board