

# CONTRACT FOR TECHNICAL SERVICES

Between

Pacific County

and the

Pacific County Economic Development Council

THIS CONTRACT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by the County of Pacific, hereinafter referred to as the "County", and the Pacific County Economic Development Council, hereinafter referred to as the "EDC".

## WITNESSETH:

WHEREAS, the EDC is actively pursuing and facilitating the location and expansion of business and industry in Pacific County through the development of a marketing strategy aimed at attracting new business and industry, the implementation of business assistance programs, the promotion of tourism and retirement living, and the establishment of liaison with local, county and state governments as well as the private business sector to coordinate and promote economic growth and development while preserving the quality of life in Pacific County; and

WHEREAS, the County is undertaking certain activities necessary to promote economic growth and development; and

WHEREAS, the County desires to engage the EDC to render certain technical advice and assistance in connection with such undertakings by the County;

NOW, THEREFORE, the parties do mutually agree as follows:

1. Scope of Service. The EDC will: (a) receive from the County inquiries from businesses and industries indicating an interest in locating in the vicinity of the County and responding to such inquiries with information and materials including, but not limited to, wage rates, employment figures, personal income statistics, site availability and such other data as may be requested; (b) furnish current research data to assist the County in the area of economic growth and development. Such data shall include, but shall not be limited to, surveys of industrial growth within Pacific County, employment, population and general statistical information and other information of similar nature; (c) provide, free of additional charge, published materials prepared by the EDC to such persons as the County may direct plus other reports and studies as the EDC may prepare. Such materials may include, but are not limited to, wage rates, employment figures, personal income statistics and other special reports; and (d) serve as a general research reference service and assist in preparing replies to inquiries about facilities and resources required by new industries which may consider the County's service area for location or expansion.
2. Period of Performance. The services of the EDC are to commence on the 1<sup>st</sup> day of January, 2016, and terminate on the 31<sup>st</sup> day of December, 2016. The duration of the contract may be extended upon mutual agreement between the parties hereto and pursuant to the terms and conditions of the contract, or terminated by 30 days notice to the other party.

3. Compensation and Method of Payment. The County shall reimburse the EDC for the services as follows:
  - a. The total contract price for the period specified in paragraph 2 shall be \$5,000.00
  - b. \$5,000 to be paid in two installments, \$2,500 due March 31, 2015, and \$2,500 due September 30, 2015.
  - c. The EDC shall submit such properly executed vouchers, invoices, or expenditure reports to the County as are requested.
4. Changes. Either party may request changes in scope of services, performing or reporting standards or compensation amount or method. Proposed changes which are mutually agreed upon shall be incorporated by written amendments to this Contract.
5. Notices. Written notices to each party shall be sent to the following addresses: Pacific County Economic Development Council, 600 Washington Ave., Raymond, WA 98577 and the County of Pacific, P.O. Box 187, South Bend, WA 98586.
6. Nondiscrimination. The EDC certifies that it is an equal opportunity employer and that it does not discriminate in its hiring or employment practices or in the provision of any of its services on the basis of membership in any group protected by state or federal law.
7. Liability. The EDC shall hold the County and its officers, agents and employees acting in their official capacity or course of employment, harmless from all suits, claims or liabilities of any nature, for and on account of injuries or damages sustained by any person or property resulting in whole or part from activities or omissions of the EDC, its agents or employees pursuant to this Contract.
8. Debarment Certification. The EDC hereby declares that it is not suspended or debarred from securing federal and/or state funds and shall remain so during the term of this Contract. Suspension and/or debarment of the EDC from securing federal or state funds shall be cause for immediate termination of this Contract by the County.
9. Subcontracting. The Contract is personal to each of the parties thereto and neither party may assign or delegate any of its rights or obligations hereunder except as set forth in this contract.
10. Integrated Document. This Contract embodies the contract, terms and conditions between the County and the Pacific County EDC. No verbal agreements or conversations any representatives of either party shall modify or affect the terms and obligations of this contract.
11. INDEMNIFICATION/HOLD HARMLESS
  - a. Indemnification by EDC. To the fullest extent permitted by law, the EDC 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 EDC, its employees, agents or volunteers or EDC'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 EDC'S or its subcontractors' use of, presence upon or proximity to the property of the COUNTY. This indemnification obligation of the EDC 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 EDC 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 EDC hereby expressly waives any immunity afforded by such acts. The foregoing indemnification obligations of the EDC are a material inducement to COUNTY to enter into the Contract, are reflected in the EDC's compensation, and have been mutually negotiated by the parties.

- b. 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 EDC's indemnity obligations under the Contract.
- c. Survival of EDC's Indemnity Obligations. The EDC agrees all EDC's indemnity obligations shall survive the completion, expiration or termination of this Contract.

## 12. INSURANCE

Without limiting the EDC'S indemnification of COUNTY, and prior to commencement of this Contract, EDC 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.

- a. General Liability Insurance. EDC 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.
- b. Professional Liability (Errors & Omissions) Insurance. EDC 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 EDC agrees to maintain continuous coverage through a period no less than three years after completion of the services required by this Contract.
- c. Workers' Compensation Insurance. EDC shall, at its own expense, maintain Workers' Compensation Insurance (statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).
- d. 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 EDC or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. EDC 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 EDC must name the COUNTY as an additional insured. The EDC agrees that its liability insurance shall be primary and non-contributory to the COUNTY's and that EDC's liability insurance policy shall so state.

13. ATTORNEY'S FEES/COST OF SUIT AND VENUE

If either party files suit to enforce this Contract, parties agree that the prevailing party in any such action shall be entitled to collection costs, reasonable attorney's fees, and costs of suit. The parties agree that any suit pertaining to this Contract shall be filed in the Pacific County Superior Court.

- a. Disputes. Differences between the EDC and the COUNTY, arising under and by virtue of this Contract, shall be brought to the attention of the COUNTY at the earliest possible time in order that such matters may be settled or other appropriate action promptly taken. Any dispute relating to the quality or acceptability of performance and/or compensation due EDC shall be decided by the COUNTY'S Contract representative or designee. All rulings, orders, instructions and decisions of the COUNTY'S contract representative shall be final and conclusive, subject to their right to seek judicial relief pursuant to Choice of Law, Jurisdiction and Venue.
- b. Choice of Law, Jurisdiction and Venue. This Contract has been and shall be construed as having been made and delivered within the State of Washington and it is agreed by each party hereto that this Contract shall be governed by the laws of the State of Washington, both as to its interpretation and performance.

Any action at law, suit in equity, or judicial proceeding arising out of this Contract shall be instituted and maintained only in any of the courts of competent jurisdiction in Pacific County, Washington.

- c. Severability. If a court of competent jurisdiction holds any part, term or provision of this Contract to be illegal, or invalid in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

If any provision of this Contract is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict, and shall be deemed modified to conform to such statutory provision.

Should the COUNTY determine that the severed portions substantially alter this Contract so that the original intent and purpose of the Contract no longer exists, the COUNTY may, in its sole discretion, terminate this Contract.

14. PUBLIC RECORDS ACT

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 EDC are needed for the COUNTY to respond to a request under the Act, as determined by the COUNTY, the EDC agrees to make them promptly available to the COUNTY. If the EDC 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 EDC 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 EDC 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 EDC (a) of the request and (b) of the date that such information will be released to the requester unless the EDC obtains a court

order to enjoin that disclosure pursuant to RCW 42.56.540. If the EDC 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 EDC to claim any exemption from disclosure under the Act. The COUNTY shall not be liable to the EDC for releasing records not clearly identified by the EDC as confidential or proprietary. The COUNTY shall not be liable to the EDC for any records that the COUNTY releases in compliance with this section or in compliance with an order of a court of competent jurisdiction.

EDC 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 EDC 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.

IN WITNESS WHEREOF, the parties here have caused this contract to be executed the date and year first written above.

BOARD OF COUNTY COMMISSIONERS  
PACIFIC COUNTY, WASHINGTON

PACIFIC COUNTY ECONOMIC  
DEVELOPMENT COUNCIL

\_\_\_\_\_  
Steve Rogers, Chairman

\_\_\_\_\_  
President

\_\_\_\_\_  
Frank Wolfe, Commissioner

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Lisa Ayers, Commissioner

ATTEST:

\_\_\_\_\_  
Marie Guernsey  
Clerk of the Board