

EMPLOYMENT AGREEMENT

OPERATIONS MANAGER

THIS AGREEMENT made and entered into, by and between the Board of Pacific County Commissioners, "BOARD" on behalf of Pacific County (COUNTY), a Washington political subdivision and municipal corporation, and Tom Gradt (OPERATIONS MANAGER), [REDACTED] Naselle, WA 98638, for the purposes and subject to the terms and conditions set forth herein:

I. DUTIES AND RESPONSIBILITIES

The OPERATIONS MANAGER is employed to assist the DIRECTOR OF PUBLIC WORKS/COUNTY ENGINEER to direct the operations of the COUNTY's Department of Public Works, at such times and in such capacity as directed by the DIRECTOR OF PUBLIC WORKS/COUNTY ENGINEER, by (a) administering its budget, personnel, equipment, grounds, and facilities; (b) monitoring its contracts and agreements to ensure compliance with applicable policies and regulations, (c) initiating related and necessary program development and planning activities, (d) analyzing a wide range of related proposals and services, and (e) performing such related duties and functions that the BOARD or its DIRECTOR OF PUBLIC WORKS/COUNTY ENGINEER shall from time to time assign. The duties and responsibilities of the OPERATIONS MANAGER are more specifically described in the job description attached hereto and made a part of this AGREEMENT hereof by this reference.

The OPERATIONS MANAGER will participate in the development and revision of COUNTY goals and objectives, programs, policies and procedures. He will maintain close working relationships with other COUNTY officials to promote efficient and harmonious achievement of BOARD objectives, and to assist with resolving problems affecting various COUNTY operations.

The parties to this AGREEMENT understand that in all respects and at all times, the OPERATIONS MANAGER is not an independent contractor. The OPERATIONS MANAGER realizes and accepts the fact that he is responsible to, under the direction of, and serves "at the pleasure of" the BOARD with his activities reviewed for adequacy of professional judgment, achievement of results consistent with objectives, and compliance with regulations and COUNTY policies.

The OPERATIONS MANAGER will operate with appreciable latitude for independent actions and decisions commensurate with demonstrated ability and he recognizes that errors in judgment could result in substantial impact upon the COUNTY.

II. HOURS OF WORK

The parties to this AGREEMENT understand and agree that this position is full time and exempt from provisions of the Federal Fair Labor Standards Act (FLSA) and from collective bargaining representation. This position often requires the OPERATIONS MANAGER to work before and beyond the scheduled business hours and occasionally on weekends and holidays.

It is further understood and agreed that the OPERATIONS MANAGER will not accrue the annual (vacation) and/or medical (sick) leaves that other COUNTY employees accrue pursuant to various labor agreements and personnel policies. However, as long as the duties herein described are performed satisfactorily, the OPERATIONS MANAGER may be absent for vacations and/or medical

reasons, including caring for immediate family members, or he may work less than the scheduled business hours without penalty.

III. COMPENSATION

For the services rendered pursuant to this AGREEMENT the COUNTY will provide the OPERATIONS MANAGER with a monthly salary of Six Thousand Two Hundred Eight Dollars and Thirty-Three Cents (\$6,208.33).

Beginning in January 2014, and in each year thereafter during which this contract and any extensions are valid, the OPERATIONS MANAGER's monthly salary will be increased to reflect "cost of living adjustments" commensurate with those provided to other COUNTY non-represented employees.

The OPERATIONS MANAGER's salary will be paid to him at the same time, and in the same manner, in which the COUNTY's non-represented employees receive their compensation, except that in all cases payment of his salary shall be made to the OPERATIONS MANAGER via direct electronic deposit.

IV. FRINGE BENEFITS

The OPERATIONS MANAGER is entitled to all the benefits enjoyed by other COUNTY non-represented employees. These benefits include, but are not limited to, regular contributions to Social Security (FICA/OASI), the Public Employees Retirement System, State industrial insurance/medical aid, unemployment insurance, and life and health insurance.

The OPERATIONS MANAGER will be covered by and participate in social security (FICA/OASI), the Public Employees Retirement System, and the state industrial insurance/medical aid, and unemployment insurance programs. The COUNTY will contribute to these programs on behalf of the OPERATIONS MANAGER in the same manner and to the same extent as for other non-represented COUNTY employees.

The COUNTY will provide a health (medical, dental, and vision) and life (term life and accidental death or disability) insurance program for the OPERATIONS MANAGER and his eligible dependents to the same extent as other non-represented COUNTY employees.

V. OTHER CONDITIONS

The COUNTY will furnish the OPERATIONS MANAGER with suitable office space, necessary office supplies and equipment, support and clerical services, and access to personal computing and other data processing and records management equipment to assist him with fulfilling the duties noted herein. It is understood that COUNTY property is to remain with the COUNTY upon severance of the OPERATIONS MANAGER.

The parties to this AGREEMENT agree that this position's incumbent must retain his primary residence within the jurisdictional boundaries of Pacific County during the duration of this AGREEMENT and any extensions.

The COUNTY will reimburse the OPERATIONS MANAGER for use of his personal vehicle when used for COUNTY business in the same manner and to the same extent as the COUNTY'S other

non-represented employees. The OPERATIONS MANAGER shall maintain state mandated insurance coverage on any personal vehicle used for COUNTY business during the duration of this contract and any extension(s), and shall provide proof of such to the COUNTY upon request. Alternately, the COUNTY may elect to furnish a COUNTY vehicle to the OPERATIONS MANAGER for his use in fulfilling his duties.

The parties agree that the need exists for the OPERATIONS MANAGER to keep abreast of professional development including budget, personnel, resource, grant, and project management methods, legislation pertinent to local government, and to maintain professional contacts, attend professional meetings, and to participate in professional organizations. Within budget limitations, the COUNTY will pay the membership dues to those organizations that contribute to the OPERATIONS MANAGER's continued professional development and improved performance and to support the costs for him to travel to and attend their meetings, conferences and training programs.

VI. TERM/TERMINATION

This AGREEMENT shall be deemed to have become effective the 1st day of January 2013 and will continue in full force and effect for three (3) years through December 31, 2015. In the event either party to this AGREEMENT desires to terminate or modify the provisions of this AGREEMENT, written notice of such intention will be personally served upon or sent by certified mail or e-mail, return receipt requested, to the other party a minimum of six (6) months prior to the expiration date or this AGREEMENT will be extended one (1) additional year. This AGREEMENT will continue thereafter on an annual basis until the proper written notice to terminate or modify is provided. This provision will not prevent the parties from amending this AGREEMENT by mutual written consent. This provision will not prevent, limit or otherwise interfere with the BOARD's right to terminate the services of the OPERATIONS MANAGER or the OPERATIONS MANAGER's right to resign from employment with the COUNTY.

If the BOARD desires to terminate the OPERATIONS MANAGER and he is willing to continue to fulfill his duties, the COUNTY will furnish (a) written notice at least six (6) months prior to the date of official discharge, or (b) a lump sum payment equal to the OPERATIONS MANAGER's next six (6) months' compensation (including fringe benefits), or (c) any combination of written notice and lump sum payment that totals six (6) months.

If the OPERATIONS MANAGER desires to voluntarily resign, he shall furnish written notice of at least sixty (60) days prior to the date he intends to separate from employment with the COUNTY.

If the OPERATIONS MANAGER is found guilty of a felony, the BOARD may, within its discretion, terminate this AGREEMENT without compensating payment to the OPERATIONS MANAGER. The BOARD or its agent must personally serve or send by certified mail, return receipt requested, written notice to the OPERATIONS MANAGER, setting forth with specificity, the grounds for termination at least ten (10) days before the effective termination date. This notice provision does not limit the authority of the BOARD to temporarily suspend the OPERATIONS MANAGER or to relieve him from duty in cases of misfeasance, malfeasance or nonfeasance if the action is set forth in writing, stating with specificity the basis for and the degree or nature of the actions. With the exception of termination as a result of his having been found guilty of a felony, if the BOARD notifies the OPERATIONS MANAGER of an action to terminate him without compensation, to suspend him, or to relieve him from duty, with or without pay, he may ask for arbitration as set forth in Article XII-DISPUTES, by filing a request in writing with the BOARD within twenty (20) days of being personally

served with written notice of the BOARD's action, or within twenty (20) days of the BOARD sending written notice by certified mail, return receipt requested.

VII. SAVINGS AND SEVERABILITY

If any provision, or any portion thereof, contained in this AGREEMENT is held to be unconstitutional, invalid or unenforceable, said provision(s), or portions(s) thereof, shall be deemed severable and the remainder of this AGREEMENT shall not be affected and shall remain in full force and effect. Furthermore, if such an event occurs, the parties agree to negotiate a modification to replace the unacceptable provision(s) as soon as possible.

VIII. NON-DELEGATION

The services to be furnished under the terms of this AGREEMENT shall be performed by the OPERATIONS MANAGER personally and shall not be delegated or subcontracted in whole or in part without the express consent of the COUNTY.

IX. LEGAL RELATIONS, INDEMNIFICATION AND INSURANCE

Pursuant to Chapter 4.96, RCW, the COUNTY shall be liable for damages arising out of the tortuous conduct of the OPERATIONS MANAGER while performing or in good faith purporting to perform his official duties to the same extent as if he were a private person or corporation. Whenever a claim, action or proceeding for damages is brought against the OPERATIONS MANAGER, his beneficiary or heirs arising from acts or omissions while performing or in good faith purporting to perform his official duties, he/they may request the BOARD to authorize the defense of the action or proceeding at the expense of the COUNTY. If the BOARD, or the COUNTY using the evaluation procedure established by Resolution No. 93-128A or its replacement, finds that the acts or omissions of the OPERATIONS MANAGER were or in good faith purported to be within the scope of his official duties, the request will be granted and the necessary expenses of defending the action or proceeding shall be paid by the COUNTY. Any resulting monetary judgment or settlement, including punitive damages, against the OPERATIONS MANAGER, his beneficiary or heirs, shall be paid on approval of the BOARD or by an approval procedure created by resolution of the BOARD.

If the BOARD and the OPERATIONS MANAGER disagree as to whether the COUNTY should authorize the defense of an action or proceeding at the COUNTY's expense or whether the COUNTY should pay to settle any claim or resulting monetary judgment arising out of the tortuous conduct of the OPERATIONS MANAGER while performing or in good faith purporting to perform his official duties, the dispute shall be submitted to arbitration as set forth in Article XII – DISPUTES.

The COUNTY will maintain continuously for the term of the AGREEMENT, at its own expense, general, automobile, employment liability, and professional liability insurance, or self-insurance on an occurrence policy basis, for the services and activities provided by the OPERATIONS MANAGER. COUNTY provided automobile liability insurance coverage shall be maintained for COUNTY owned vehicles only.

X. SOLICITATION OF CONTRACT

The OPERATIONS MANAGER warrants that he has not employed or retained any company or person to solicit or secure this contract, that he has not paid or agreed to pay any company or person any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or

resulting from the award of making this AGREEMENT. For breach or violation of this warranty, the COUNTY shall have the right to annul this contract without further liability.

XI. OWNERSHIP OF DOCUMENTS

The OPERATIONS MANAGER agrees that all systems, documents, reports, and compilations of any kind or nature developed during the performance of the work undertaken pursuant to this AGREEMENT shall belong to or become the property of the COUNTY to be used and retained without payment of any fee or license of any kind whatsoever by the COUNTY.

XII. DISPUTES

The parties agree that disputes concerning interpretation of the meaning of any of the terms of this AGREEMENT, scope of the duties to be performed under this AGREEMENT, or other question relating to the performance of the terms of this AGREEMENT shall be subject to arbitration according to the following procedures; however, the parties agree to make reasonable attempts to resolve disputes before moving forward with arbitration:

Either party may initiate arbitration. The initiating party must first provide the other written notice of such setting forth with specificity the nature of the dispute. Within fifteen (15) days of receiving a notice requesting arbitration, each party will choose a selector. The two (2) selectors chosen will, within fifteen (15) days of both being chosen, select a disinterested third person to serve as the arbitrator who is capable, willing and prepared to conduct the hearing and render the written decision within the specified time limits. If the time frames are not met, the Pacific County Superior Court Judge will select the arbitrator. A "day" will be as defined in the County Civil Rules.

The COUNTY agrees to pay for the services of an arbitrator at a rate not to exceed one hundred dollars (\$100) per hour up to a total amount which shall not exceed three thousand dollars (\$3,000). However, if an arbitration proceeding is initiated by the OPERATIONS MANAGER and the arbitrator determines that the position of the OPERATIONS MANAGER is frivolous; the OPERATIONS MANAGER shall pay for the arbitration services.

The arbitrator is empowered to determine all issues including employment duties and employment status during the pendency of the arbitration. He/She will be allowed to make temporary decisions regarding the dispute; provided, the arbitrator will conduct a formal hearing to take testimony concerning the dispute before reaching a final decision. "Rules of evidence" shall not apply, but the parties shall have the opportunity to present relevant evidence, to call witnesses, and to cross examine adverse witnesses.

Within thirty (30) days of the conclusion of the hearing, the arbitrator will decide the dispute by issuing a written decision; otherwise, either party may re-initiate the arbitration process, in which case the present arbitrator will be released from further duty without compensation. The arbitrator's decision will be final and binding upon the parties hereunder and enforceable, if necessary, in a court of law.

XIII. ATTORNEYS FEES AND COSTS

In the event either party files a lawsuit in any trial or appellate court seeking enforcement of an arbitrator's decision, the filing party, if successful, shall be entitled to costs of suit, court costs and reasonable attorney's fees.

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

OPERATIONS MANAGER:

 10/29/12

Tom Gradt Date

SSN on file

BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON:

Lisa Ayers, Chairman

Norman B. Cuffel, Commissioner

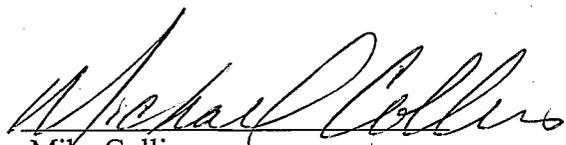
Beverly Olson, Interim Commissioner

APPROVED AS TO FORM:

Prosecuting Attorney Date

ATTEST:

Clerk of the Board Date


Mike Collins
Director of Public Works/County Engineer