

## EMPLOYMENT AGREEMENT

### **DIRECTOR OF COMMUNITY DEVELOPMENT**

THIS AGREEMENT made and entered into by and between the Board of Pacific County Commissioners ("BOARD") through its County Administrative Officer ("ADMINISTRATOR") on behalf of Pacific County ("COUNTY"), a Washington political subdivision and municipal corporation, and Faith Taylor-Eldred (DIRECTOR), [REDACTED], for the purposes and subject to the terms and conditions set forth herein:

#### **I. DUTIES AND RESPONSIBILITIES**

The DIRECTOR is employed to direct the operations of the COUNTY's Department of Community Development by (a) administering its budget, personnel, equipment, 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 ADMINISTRATOR shall from time to time assign.

The DIRECTOR represents that she is a registered sanitarian under the Washington State Board of Registered Sanitarians, and will maintain such in good standing during the term of this AGREEMENT and any extensions. Failure to maintain such registration and license shall be cause for suspension with or without compensation, and/or immediate termination of the DIRECTOR without provision of the notice and/or compensation specified in Article VI Term/Termination of this AGREEMENT.

The DIRECTOR will participate in the development and revision of COUNTY goals and objectives, programs, policies and procedures. She 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 DIRECTOR is not an independent contractor. The DIRECTOR realizes and accepts the fact that she is responsible to, under the direction of, and serves "at the pleasure of" the BOARD with her activities reviewed for adequacy of professional judgment, achievement of results consistent with objectives, and compliance with regulations and COUNTY policies.

It is understood that the DIRECTOR will likely have to make unpopular decisions which may benefit some while negatively affecting others for the public's health, safety and welfare, or to comply with regulations. It is further understood that as a public servant the DIRECTOR is vulnerable to criticisms, whether justified or not. The BOARD agrees to exercise patience and to reserve judgment until the facts are known, and will take steps to protect the DIRECTOR's professional status when confronted with disparaging accusations.

The DIRECTOR will operate with appreciable latitude for independent actions and decisions commensurate with demonstrated ability and she 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 DIRECTOR to work before and beyond the scheduled business hours and occasionally on weekends and holidays.

It is further understood and agreed that the DIRECTOR 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 DIRECTOR may be absent for vacations and/or medical reasons, including caring for immediate family members, or she 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 DIRECTOR with a monthly salary of six thousand one hundred dollars (\$6,100). Effective January 1st, 2013, the DIRECTOR will receive "cost-of-living adjustments" commensurate with those provided other COUNTY non-represented employees.

The DIRECTOR's salary will be paid to her 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 her salary shall be made to the DIRECTOR OF COMMUNITY DEVELOPMENT via direct electronic deposit.

## **IV. FRINGE BENEFITS**

Except as described in Article II, HOURS OF WORK, the DIRECTOR 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 DIRECTOR 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 DIRECTOR 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 DIRECTOR and her eligible dependents to the same extent as other non-represented COUNTY employees.

## **V. OTHER CONDITIONS**

The COUNTY will furnish the DIRECTOR 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 her with fulfilling the duties noted herein. It is understood that COUNTY property is to remain with the COUNTY upon severance of the DIRECTOR.

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

The COUNTY will reimburse the DIRECTOR for use of her 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 DIRECTOR 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 DIRECTOR for her use in fulfilling her duties.

The parties agree that the need exists for the DIRECTOR 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. In addition, the parties agree that the need exists for the DIRECTOR to maintain pertinent state licenses and registrations, and acknowledge that maintenance of said licenses and registrations requires continuing education. Within budget limitations, the COUNTY will pay the membership dues to those organizations that contribute to the DIRECTOR'S continued professional development and improved performance and to support the costs for her to travel to and attend their meetings, conferences and training programs.

## **VI. TERM/TERMINATION/REVERSIONARY RIGHTS**

This AGREEMENT shall be effective the 1st day of September 2011 and will continue in full force and effect through December 31, 2014. 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, return receipt requested, to the other party a minimum of one hundred and twenty (120) days prior to the expiration date, or this amended 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 DIRECTOR or the DIRECTOR'S right to resign from employment with the COUNTY.

If the BOARD desires to terminate the DIRECTOR and she is willing to continue to fulfill her duties, the COUNTY will provide (a) written notice at least six (6) months prior to the date of official discharge, (b) a lump sum payment equal to the DIRECTOR's next six (6) month's compensation (including fringe benefits), or (c) a combination of written notice and lump sum payment that when added together meets the six (6) month requirement.

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

If the DIRECTOR is found guilty of a felony, the BOARD may, within its discretion, terminate this AGREEMENT without compensating payment to the DIRECTOR. The BOARD or its agent must personally serve or send by certified mail, return receipt requested, written notice to the DIRECTOR, 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 DIRECTOR or to relieve her 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 her having been found guilty of a felony, if the BOARD notifies the DIRECTOR of an action to terminate her without compensation, to suspend her, or to relieve her from duty, with or without pay, she 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 DIRECTOR 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 DIRECTOR while performing or in good faith purporting to perform her official duties to the same extent as if she were a private person or corporation. Whenever a claim, action or proceeding for damages is brought against the DIRECTOR, her beneficiary or heirs arising from acts or omissions while performing or in good faith purporting to perform her official duties, she/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 DIRECTOR were or in good faith purported to be within the scope of her 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 DIRECTOR, her 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 DIRECTOR 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 DIRECTOR while performing or in good faith purporting to perform her 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 DIRECTOR. COUNTY provided automobile liability insurance coverage shall be maintained for COUNTY owned vehicles only.

## **X. SOLICITATION OF CONTRACT**

The DIRECTOR warrants that she has not employed or retained any company or person to solicit or secure this contract, that she 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 DIRECTOR 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 DIRECTOR and the arbitrator determines that the position of the DIRECTOR is frivolous; the DIRECTOR 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. 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.

