

PUBLIC UTILITY DISTRICT NO. 1

OF

JEFFERSON COUNTY

RESOLUTION NO. 2018-006

A RESOLUTION of the Board of Commissioners of Public Utility District No. 1 of Jefferson County, Washington ("the PUD"), for the appointment of General Manager to the PUD.

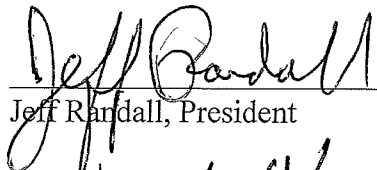
WHEREAS, the Commissioners of PUD No. 1 of Jefferson County desire to appoint a General Manager in accordance with RCW 54.16.100, and

WHEREAS, the Commissioners of PUD No. 1 of Jefferson County seek to appoint Larry Dunbar General Manager pursuant to an employment contract, and

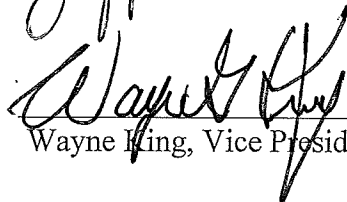
WHEREAS, the Commissioners authorize the President of the Board of Commissioners to execute on behalf of the PUD.

NOW, THEREFORE BE IT RESOLVED, the Commissioners of the PUD No. 1 of Jefferson County hereby appoint Larry Dunbar, as the General Manager of the District, effective April 23, 2018, subject to the attached executed employment agreement, and authorize the Commissioner's President to execute the employment agreement on behalf of PUD No. 1 of Jefferson County.

ADOPTED by the Commission of Public Utility District No. 1 of Jefferson County, Washington, at a regular open meeting held this 20th day of March 2018.



Jeff Randall, President



Wayne King, Vice President

ATTEST 

Kenneth Collins, Secretary

Employment Agreement
between
Public Utility District No. 1 of
Jefferson County, Washington
and
Larry Dunbar
its
General Manager

THIS AGREEMENT dated this 20th day of March, 2018 is entered into by and between **PUBLIC UTILITY DISTRICT NO. 1 OF JEFFERSON COUNTY, WASHINGTON ("District")**, a public utility district organized pursuant to RCW 54.16 and the laws of the State of Washington and **Larry Dunbar** (the "**Employee**"). Either District or the Employee may be referred to as a "Party" or jointly as "Parties." The District is governed by three board members, collectively known as the "Board of Commissioners" or the "Board."

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the District and the Employee agree as follows:

1. Employment. Upon the terms and conditions set forth in this Agreement, starting as of April 23, 2018, (the "Effective Date"), the District hereby employs Employee as an "at-will" employee in the position of General Manager, and the Employee hereby accepts such employment, as an "at-will" employee of the District.

2. Duties. The Employee shall perform the functions of General Manager, reporting to the District's Board of Commissioners. The Employee shall devote his full working time and best reasonable efforts to the District, and to fulfilling the duties of his position, which shall include such duties as may from time-to-time be assigned to him by the District's Board of Commissioners and such duties as are normal and customary of the General Manager.

A. Compliance with Laws and Policies. The Employee shall abide by all laws, policies, practices, procedures, or rules of the District.

B. RCW 54.16.100. Employee shall fulfill all duties set forth in RCW 54.16.100.

C. Special Duties. Employee shall perform any special duties assigned or delegated to him by the Board.

3. **Term.** This Agreement shall be effective on April 23, 2018 and shall continue until April 23, 2021, unless earlier terminated in accordance with Sections 8 or 9 hereof. This Agreement shall be renewable subject to the consent of both Parties up to sixty (60) days prior to the expiration of the Agreement.

4. **Annual Review.** Within thirty (30) days of December 31, 2018, and each year thereafter, or such other date agreed-to by the Parties, the Board of Commissioners shall provide Employee with a performance evaluation and allow the Employee an opportunity to discuss with the Board his performance, compensation, contract term extension and goals for the coming year. In advance of each such evaluation, Employee shall prepare all necessary and appropriate materials to provide a basis for the annual review.

5. **Base Salary and Future Adjustments.** The District shall pay the Employee an annual base salary as stated in Attachment A to this Agreement, payable according to the District's normal payroll practices applicable to salaried employees ("Base Salary"). If the Employee's Base Salary is increased from time to time, the increased amount shall be the Base Salary for the remainder of the Term and shall be reflected on an amended Attachment A. All compensation provided to the Employee under this Agreement, whether by way of Base Salary, severance, or otherwise, shall be reduced by such amounts as are required to be withheld by law and such further amounts as the Employee shall request.

6. **Relocation.** The District will reimburse Employee for all reasonable expenses resulting from Employee's relocation to the District incurred within one-hundred and eighty (180) days of the Effective Date, including without limitation storage costs. The District will reimburse the Employee for up to Fifteen Thousand Dollars (\$15,000) in relocation and storage expenses, based upon receipts of actual relocation expenses incurred by Employee and submitted to the District within one-hundred and eighty (180) days after the Effective Date. In the event Employee terminates this Agreement within the first year of the term of the Agreement, he shall reimburse the District the relocation payment received by the Employee, pro-rated for the months of employment during such year. For the avoidance of doubt and as an example, should employee terminate this Agreement in the eleventh (11th) month of employment, Employee would reimburse the District one/twelfth (1/12) of the relocation payments received pursuant to this Section 6.

7. **Employee Benefits and Plans.** Employee shall be entitled to all benefits in accordance with Attachment A. The Employee shall be entitled to participate in any and all employee-benefit plans (such as life insurance and disability plans) and other employee-benefit plans, including but not limited to any available retirement plans established by the District from time to time for the benefit of its exempt employees. Employee shall comply with the eligibility criteria and other conditions imposed by the plans to be entitled to benefits in accordance with the terms and conditions of such plans as they may be amended from time to time. However, nothing in this Agreement shall be construed as requiring the District to establish or continue any particular benefit plan to the extent the Employee has already qualified for them.

8. **Business Expenses.** Consistent with the annual budget as approved by the Board and the District's adopted policies, the District shall pay or reimburse all ordinary and necessary business expenses that are reasonably incurred by the Employee in performing his duties as General Manager, provided that the Employee provides appropriate documentation of such expenses and accounts to the District promptly for such expenses in the manner prescribed by the District in its reimbursement policy. The District will provide Employee with a mobile telephone at the District's expense.

9. **Termination for Cause.** The District may terminate this Agreement and the Employee's employment hereunder immediately upon the District's determination of "Cause." For the purposes of this agreement, "Cause" is defined below.

A. **Definition of Cause.** "Cause" means any one or more of the following:

- (1) Failure or neglect by the Employee to reasonably perform the material duties of the Employee's position;
- (2) Failure of the Employee to obey lawful policies or instructions of the District;
- (3) Misconduct in connection with the performance of any of the Employee's duties, including, without limitation, misappropriation of funds or property of the District, securing or attempting to secure personally any profit in connection with any District transactions, material misrepresentation to the District, or any material violation of law or regulation, on the District's premises, or to which the District is subject;
- (4) Commission by the Employee of an act involving moral turpitude, dishonesty, theft or unethical business conduct, or conduct which may impair or injure the reputation of, or otherwise harm, the District;
- (5) Failure by the Employee to devote his full time and best efforts to the District's business and affairs;
- (6) Failure to fully cooperate in any investigation by the District; or any willful breach of this Agreement or the District's rules.

B. **Determination of Cause.** Prior to the Board making a determination that Cause exists for terminating this Agreement and the employment of Employee hereunder, the Board shall provide Employee with a detailed written statement of the alleged actions or omissions which could constitute Cause as defined in Section 9(A), and provide Employee with the opportunity to address the Board regarding such alleged actions or omissions.

C. **Payment Upon Termination for Cause.** In the event of termination for Cause pursuant to this Section 9, the District shall be released from any and all further obligations under this Agreement, except for accrued Base Salary and accrued Vacation/Paid Time Off then owing to the Employee through the date of termination. The Employee shall not be entitled to any severance pay or benefits continuation or any other compensation of any kind, except as may otherwise be required by law, or for post payment of retirement, 401k, death or disability benefits.

10. **Termination Without Cause.** Notwithstanding the term of this Agreement, Employee is an "at-will" employee and is employed at the pleasure of the Commission. The Commission may remove the Employee at any time, for any reason. At the same time, Employee may choose to resign or retire at any time, for any reason. This Section shall not be applicable where termination occurs due to the Employee's death or disability or termination for "Cause" pursuant to Section 9. The Employee or the District may terminate this Agreement, "Without Cause" as provided in this Section. The compensation provided for in this Section shall constitute the Employee's sole remedy for termination by the District "Without Cause."

A. **Termination Without Cause by the District**

Severance. In the event Employee is terminated Without Cause during the term of this Agreement, the District shall pay the Employee one year's salary at the then current annual rate ("Severance Payment"), as well as any accrued Vacation/Paid Time Off remaining, less applicable withholding. The payment is due on or before the thirtieth (30th) day following termination after Employee and the District each executes in favor of the other a full release of claims and any applicable revocation period has passed. Except as stated in this paragraph and upon execution of the release of claims, the Employee shall not be entitled to any severance pay or benefits continuation or any other compensation of any kind, except as may otherwise be required by law, or for post payment of retirement, 401k, death or disability benefits.

Release. In the event Employee accepts the Severance Payment or any benefits described in this Section, each Party agrees to sign a full release waiving all actual or potential legal claims against the other Party. The release will contain, but not be limited to, a promise not to sue, make any claims or initiate any legal, regulatory or administrative action against the other Party or its agents, elected officials, employees, assigns and a full release of the other Party, its agents, elected officials, employees, and assigns including all claims, causes of action, damages, attorney fees, or any consequential damages that may arise out of the relationship of the Employee and the District. The release shall also include all direct or indirect damages, and all claims in law or equity, negligence, or statutory including but not limited to 42 U.S.C. Section 1983, Title VII of the Civil rights Act, as amended. The release shall also include any claims under the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Washington Law Against Discrimination.

B. Termination by the Employee. The Employee shall give the District advance written notice of termination not less than sixty (60) days prior to the effective date of termination. The District shall pay the Employee his compensation through the date of termination. Accrued Vacation/Paid Time Off shall be paid to Employee, with all such payments being made within thirty (30) days of the termination date. The Employee shall not be entitled to any severance pay or benefits continuation or any other compensation of any kind except as may otherwise be required by law, or for post payment of retirement, 401k, death or disability benefits.

11. Working Atmosphere. The Board and Employee agree to endeavor to create a positive, open, team-oriented environment. The Board shall use its best efforts to support Employee in the performance of his duties as the General Manager of the District.

12. Cooperation. The Employee agrees that both during and after his employment with the District ends he shall, at the request of the District, render all reasonable assistance and perform all reasonable lawful acts that the District requests in connection with any litigation arising out of events occurring during his employment by the District involving the District, any director, officer, or employee. The District shall compensate the Employee for such assistance at an hourly rate commensurate with his most recent the District Base Salary, as well as any necessary reimbursement for incidental expenses.

13. Return of Property. The Employee acknowledges that he may be provided with equipment, supplies, keys, credits cards, software, automobile and other property for business use (collectively, the "the District Property"). The Employee shall return all the District Property immediately upon termination of his employment with the District.

14. Notices. All notices, requests, and demands given to or made pursuant hereto shall, except as otherwise specified herein, be in writing and be delivered or mailed to such Party at such Party's address as set forth below ("Notice"). A Party may update such address by providing a new address in writing to the other Party. Any Notice, if mailed properly addressed, postage prepaid, registered or certified mail, shall be deemed dispatched on the registered date or that stamped on the certified mail receipt, and shall be deemed received within the third business day thereafter or when it is actually received, whichever is sooner:

To Employee:

Larry Dunbar
2125 East Mount Daniels Dr
Ellensburg, WA 98926

To the District:

Jefferson County Public Utility District No.
Attn: Board of Commissioners President
310 Four Corners Road
Port Townsend, WA 98368

15. Attorneys' Fees. In the event of any suit, action, or arbitration to interpret or enforce this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees, costs, and out-of-pocket expenses, at trial and on appeal.

16. **Governing Law and Jurisdiction.** This Agreement shall be interpreted and enforced in accordance with the laws of the State of Washington.

17. **Alternative Dispute Resolution and Venue.** The Parties agree that in the event a dispute arises regarding this Agreement, after meeting with each other and a good faith effort to resolve it, no later than thirty (30) days after the meeting the Parties agree to mediate the dispute as precondition to any arbitration. Should the Parties be unable to mutually agree upon a mediator, then they shall each select a mediator, and the two mediators shall mutually agree on a mediator for the dispute. Should the Parties be unable to resolve the dispute after mediation, then within thirty (30) day thereof, it shall be resolved by arbitration administered by the American Arbitration Association in accordance with the Commercial Arbitration Rules of the American Arbitration Association, provided that each Party shall be entitled to full rights of discovery as set forth in the Rules of Civil Procedure for the Superior Courts of the State of Washington. Any judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Arbitration shall be held in Seattle, Washington.

18. **Waiver.** A Party's failure to demand strict performance of any provision of this Agreement shall not constitute a waiver of any provision, term, covenant, or condition of this Agreement or of the right to demand strict performance in the future.

19. **Successors and Assigns.** This Agreement shall be binding upon the Employee's heirs, executors, administrators, or other legal representatives and may be assigned and enforced by the District, its successors, and assigns. The Agreement may not be assigned by the Employee.

20. **Entire Agreement.** This Agreement constitutes the entire agreement of the District and the Employee with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous agreements with respect to its subject matter. This Agreement may only be modified or amended in a writing signed by the Employee and an authorized representative of the District after approval by the Board.

21. **Severability and Enforcement.** If any arbitrator or court of competent jurisdiction finds that any term or provision of this Agreement is unlawful or unenforceable, that term or provision shall be eliminated or modified as necessary to render it enforceable to the fullest extent allowed by applicable law and consistent with the Parties' intent. The unenforceability of any term or provision shall not affect the validity of the other provisions in this Agreement that can be given effect.

22. **Opportunity for Review.** The Employee acknowledges that he has carefully read the foregoing Agreement, understands its contents, has sought such legal or financial advice as he deems necessary, and has signed it voluntarily. This Agreement has been subject to negotiation among sophisticated parties. Accordingly, any rule requiring interpretation of the Agreement for or against any party shall not be applicable.

23. **Section Headings.** The section headings contained herein are for reference purposes only and will not in any way affect the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by the proper persons duly authorized as of the day and year first above written.

**JEFFERSON COUNTY PUBLIC UTILITY
DISTRICT NO. 1**

Signature: Jeff Randall

Print Name: Jeff Randall

Its: President

Date: 3-20-18

LARRY DUNBAR

Signature: Larry Dunbar

Date: 3-20-18