

PUBLIC UTILITY DISTRICT NO. 1  
OF  
JEFFERSON COUNTY

RESOLUTION NO. 2019-06

A RESOLUTION of the Board of Commissioners of the Public Utility District No 1 of Jefferson County, Washington ("the PUD"), for the separation agreement with Jefferson County PUD, and appointment of acting General Manager,

WHEREAS, the General Manager of Public Utility District of Jefferson County was hired as an "at-will" employee of the PUD, whose contract was entered into March 20, 2018; and

WHEREAS, the General Manager has agreed to the terms of a proposed Separation Agreement, introduced at the January 15, 2019 regular meeting of the Board of Commissioners;

WHEREAS, the Board of Commissioners (the "Board") of the PUD have reviewed and considered the Separation Agreement with the General Manager and agree that its terms and conditions are reasonable;

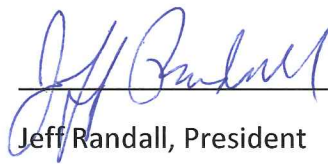
WHEREAS, the General Manager may be removed "at will" by approval of a Board Resolution pursuant to RCW 54.16.100, and

WHEREAS, pursuant to RCW 54.16.100, this resolution was introduced at the regular Board meeting January 15, 2019 for possible adoption at a subsequent regular Board meeting; and

WHEREAS, pursuant to RCW 54.16.100, the Board may appoint a General Manager, whose appointment shall be subsequently approved after introduction at a regular meeting of the Board.

NOW, THEREFORE, BE IT RESOLVED that, pursuant to RCW 54.16.100, (1) the Board of the PUD hereby directs that the General Manager be removed as General Manager no later than February 5, 2019, the next regularly scheduled meeting of the Board of Commissioners, subject to full execution of any Separation Agreement between the parties; (2) it is further resolved that pursuant to RCW 54.16.100, the Board of Commissioners shall appoint its current Assistant General Manager Kevin Streett as the Acting General Manager of the PUD until the Board of Commissioners completes the selection process for a permanent General Manager; and (3) it is further resolved the terms and conditions of the Acting General Manager's employment shall be \$160,000, the same as those introduced at the regular meeting of the PUD on January 2, 2019, consistent with the PUD's Offer of Employment for Assistant General Manager.

**ADOPTED** this 5th day of February 2019 at the regular Board of Commission meeting.

  
Jeff Randall, President

  
Dan Toepper, Vice President

ATTEST:

  
Ken Collins, Secretary

## SEPARATION AGREEMENT AND RELEASE

*This Document Affects Important Legal Rights You May Have  
Please Read It Carefully Before Signing*

The Parties to this Separation Agreement and Release ("Agreement") are Jefferson County Public Utility District No. 1 ("JPUD" or "Employer"), and Larry Dunbar ("Employee").

### RECITALS

- A. Employee and Employer have an at will Employment Agreement, attached and referred to as Exhibit 1.
- B. Employee and Employer agree to enter into this Separation Agreement and Release ("Agreement") in order to terminate their relationship in an orderly manner.
- C. Employee and Employer agree that the benefits and obligations of each arising from the termination without cause of Employee will be governed by the terms of this Agreement, and not by the terms of the Employment Agreement.

### AGREEMENT

Therefore, in consideration of the mutual promises set forth below, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

**1. Separation from Employment.** Employer placed Employee on paid administrative leave for thirty (30) days commencing on December 20, 2018 (the "Leave Date"). Upon the execution of this Agreement by both Parties but no later than January 19, 2019, Employer will take all actions necessary to terminate without cause Employee as General Manager of JPUD with an effective date of termination no later than eight (8) calendar days of taking all such necessary actions (the "Termination Date").

**2. Benefits and Obligations Upon Termination Without Cause.** The Parties agree that the benefits and obligations of each of the Parties arising from the termination without cause of Employee will be governed by the terms of this Agreement, and not by the terms of the Employment Agreement.

**3. Payment.** Provided Employee shall not revoke the acceptance of this Agreement as prescribed in paragraph 5, the following consideration will be provided to Employee:

a. **Severance Payment.** Not later than five (5) calendar days of the Termination Date, Employer shall pay Employee: i) One Hundred and Seventy-Five Thousand Dollars (\$175,000.00); ii) the cash value as determined pursuant to JPUD policies all accumulated Paid Time Off ("PTO") due to Employee through the Termination Date; and iii) an amount equal to two (2) months premiums payable by Employee under COBRA for continuation of medical benefits. Such payments will subject to all required withholdings and deductions in accordance with all applicable local, state and federal laws, and deductions authorized by Employee.

Employee's Initials 

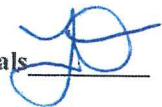


b. **COBRA/Benefits.** Employee's normal participation in JPUD's group medical/dental plan will terminate on the Termination Date as per the plan requirements. If Employee is eligible under relevant law and the terms of JPUD's group medical/dental plan, coverage thereafter will be made available to Employee and his eligible dependents pursuant to current federal law (COBRA).

4. **Unemployment Benefits.** Employer will not contest Employee's application for unemployment benefits, subject to its obligation to provide truthful responses to the Employment Security Department ("ESD").

5. **Full Release of Claims.**

a. **Employee's Release.** Employee shall release JPUD, its predecessor entities, any of its government partners, and with respect to each entity, all past, present and future Commissioners, board members, employees, managers, supervisors, fiduciaries, directors, officers, representatives, agents, attorneys, consultants, assigns, insurers, whether acting in their individual or official capacities, and any other persons acting by, through, under, or in concert with any of the persons or entities listed in this paragraph; and with respect to each such entity and individual, all predecessors and assigns (together the "Released Parties" or "Releasees.") In exchange for the consideration set forth above, Employee hereby unconditionally releases and forever discharges Releasees, from any and all causes of action, suits, damages, claims, and demands whatsoever, whether known or unknown, suspected or unsuspected, which Employee ever had or now has against the Released Parties, directly or indirectly arising from or relating to his employment with Employer, his separation from employment with Employer, and any other facts, acts, omissions, transactions, or occurrences occurring at any time up through the date on which he signs this Agreement, to the fullest extent permitted by law, including but not limited to any and all claims for breach of contract, wrongful termination, harassment, retaliation, defamation, employment discrimination arising under or in connection with Local, State or Federal Laws, including the Age Discrimination in Employment Act of 1967 ("ADEA"); the Old Workers Benefit Protection Act (OWBPA); Title VII of the Civil Rights Act of 1964; the Rehabilitation Act of 1973; the Americans with Disabilities Act; 42 USC 1981, 1985, 1986, and 1988; the Washington Law Against Discrimination; the Washington Prohibited Employment Practices Law; the Washington Minimum Wage Act; the Washington Family Leave Act; the Washington Fair Credit Reporting Act; the retaliation provisions of the Washington Worker's Compensation Act; the Washington Industrial Safety and Health Act (WSHA); the Washington Public Employment Relations Act; the Affordable Care Act, including any and all amendments to the above, to the fullest extent permitted by law; the Fair Labor Standards Act; and any other tort, contract, common-law, constitutional or other statutory claims, any claims based on violation of public policy, violations of JPUD's policies, and all claims for attorneys' fees, costs and expenses. Employee understands and agrees that this is a total and complete release by him of all claims that he has against Employer, both known and unknown, even though there may be facts and consequences of facts which are unknown to Employee and/or Employer, *provided, however*, that any breach of this Agreement by Employer or Released Parties is not covered by nor released by Employee pursuant to this Section 5(a). Employee represents and agrees that Employee has been fully paid for all hours worked by Employee through the date of this Agreement.





Employee further agrees, not to file any lawsuits against the Released Parties with respect to any claims released in this Agreement.

**b. Employer's Release.** Employer, its predecessor entities, any of its government partners, and with respect to each entity, all past, present and future Commissioners, board members, employees, managers, supervisors, fiduciaries, directors, officers, representatives, agents, attorneys, consultants, assigns, insurers, whether acting in their individual or official capacities, and any other persons acting by, through, under, or in concert with any of the persons or entities listed in this paragraph; and with respect to each such entity and individual, all predecessors and assigns (together the "Releasing Parties"). In exchange for the consideration set forth above, Employer hereby unconditionally releases and forever discharges Employee, from any and all causes of action, suits, damages, claims, and demands whatsoever, whether known or unknown, suspected or unsuspected, which Releasing Parties ever had or now has against Employee, directly or indirectly arising from or relating to his employment with Employer, his separation from employment with Employer, and any other facts, acts, omissions, transactions, or occurrences occurring at any time up through the date on which this Agreement takes effect, to the fullest extent permitted by law, including but not limited to any and all claims for breach of contract, wrongful termination, harassment, retaliation, defamation, employment discrimination arising under or in connection with Local, State or Federal Laws; and any other tort, contract, common-law, constitutional or other statutory claims, any claims based on violation of public policy, violations of JPUD's policies, and all claims for attorneys' fees, costs and expenses. Employer understands and agrees that this is a total and complete release of all claims that Employer has against Employee, both known and unknown, even though there may be facts and consequences of facts which are unknown to Employee and/or Employer; *provided, however*, that any breach of this Agreement by Employee is not covered by nor released by Employer pursuant to this Section 5(b). Releasing Parties agree, not to file any lawsuits against the Employee with respect to any claims released in this Agreement.

**6. Release of Claims under the Older Worker Benefit Protection Act.** Employee understands and agrees that by signing this Agreement he waives and releases any claims he may have under the Older Worker Benefit Protection Act and Age Discrimination in Employment Act ("OWBPA/ADEA"). This Agreement does not waive or release any rights or claims Employee may have under the OWBPA/ADEA, which arise after the date Employee signs this Agreement. Employee affirms and acknowledges that he has read and understands this Agreement and that he may have Twenty-One (21) days from the date of Employer's final offer on [date] to consider this Agreement, although Employee may voluntarily elect to waive any of this consideration period. THE PARTIES EXPRESSLY AGREE THAT CHANGES TO THIS AGREEMENT, WHETHER MATERIAL OR NOT, DO NOT RESTART THE RUNNING OF THE 21 DAY CONSIDERATION PERIOD. Employee is hereby advised to consult with an attorney regarding the terms of this Agreement. Employee accepts this Agreement freely and voluntarily and with full knowledge of its effect.

Employee further acknowledges that this Agreement shall not become effective until 7 days after he has signed this Agreement, during which time this Agreement can be revoked. This 7-day revocation period cannot be waived. In order to be effective, a notice of revocation must be



received by Employer before expiration of the 7-day revocation period. Such notice shall be provided in writing to Jeff Randall, President, Board of Commissioners, Jefferson County PUD No. 1.

Employee understands and agrees that if he revokes the Agreement within the 7-day revocation period, he will not be entitled to receive any of the Severance benefits described in Paragraph 2. Employee further understands and agrees that the Agreement cannot be revoked beyond the 7-day revocation period. Employer's obligations under this Agreement shall not become effective until after the seven (7) day rescission period has expired without a rescission having occurred (the "Effective Date of the Agreement").

**7. Charges.** Nothing in this Agreement shall prohibit Employee from filing a charge with or participating in any investigation or proceeding conducted by the U.S. Equal Employment Opportunity Commission or comparable state or local agencies, National Labor Relations Board or any other government agency. Employee acknowledges that even if Employee files such a complaint, Employee is waiving any right to recover monetary damages or other individual relief.


**8. Non-Disclosure.** Employee acknowledges and agrees, except as required by law, that he will not disclose to any person, other than his attorney, spouse, and/or financial advisor any non-public JPUD financial information, any non-public JPUD personnel information and any other non-public information held by JPUD. "Disclosure" for the purposes of this Agreement includes, but is not limited to, information conveyed by Employee through rumor, or otherwise through third persons, electronically, or through any other manner of communication. Nothing in this Agreement shall preclude Employee from disclosing anything as required by an order of court of competent jurisdiction, by applicable law, or by regulatory agency, provided that Employee gives the Employer prompt notice of any such required disclosure.

**9. Disclosure of this Agreement.** This Agreement is a public record pursuant to the Washington Public Records Act, RCW 42.56. As such it is disclosable upon receipt by JPUD of a public records request, pursuant to RCW 42.56. Disclosure of this Agreement is not a violation of this Agreement. In the event of any public records request pursuant to RCW 42.56, JPUD will notify Employee in advance and prior to any disclosure. Further, Employee understands and agrees that this Agreement may only be approved at a public meeting of the JPUD Board of Commissioners under the Washington Open Public Meetings Act, RCW 42.30.

**10. Mutual Non-Disparagement.**

(a) Employee agrees not to directly or indirectly make any disparaging statements about his employment at JPUD, about this Agreement, as well as current and former JPUD staff, Board members, partners, agents, vendors, attorneys, consultants, or any other person affiliated with JPUD, before or after separation from employment, either written, or verbal, or through a third party.

(b) JPUD's current and former Board members, Director-level managers and attorneys agree not to make any disparaging statements about Employee, his employment with JPUD, or about this Agreement, before or after Employee's separation from employment, either written or verbal, or through a third party.





**11. Duty to Cooperate.** If requested by Employer, Employee agrees to make himself available to cooperate with Employer in evaluating, prosecuting and/or defending any potential, threatened or filed claims, charges, actions or lawsuits involving Releasees, including any investigations by federal or state agencies, where he may have knowledge of the underlying facts arising during his period of employment with JPUD. Employee also agrees that he will not voluntarily assist or cooperate with any parties adverse to Releasees (or adverse parties' attorneys or agents) in any claims, investigations, charges, actions or lawsuits involving Releasees, except that Employee may truthfully testify at or in any proceeding in response to a lawful subpoena or court order. Employer agrees to pay Employee's out-of-pocket expenses (travel, lodging, meals, etc.) reasonably incurred in fulfilling his duty to cooperate. Employee further agrees to promptly notify Employer in writing by contacting the Interim CEO or current CEO of Employer and the Chairman of the Board of Directors upon being served with any legal process in any way relating to his former employment with Employer.

**12. Return of Property.** Employee agrees to return all property belonging to Employer, including but not limited to JPUD files, computers, computer programs, and any other business-related information. Employee may retain his current cell phone, and Employer will cooperate in porting Employee's current number over to Employee. Employer may deduct from payroll the replacement cost of any items owned by Employer that are damaged or not returned.

**13. Breach of Agreement.** In the event that either Party is adjudicated by a Superior Court to have breached any material obligation set forth in this Separation Agreement and Release, and without waiving any other legal remedy either Party may be entitled to in the event such a determination of a breach, the breaching Party shall be obligated to pay to the non-breaching Party as liquidated damages \$5,000 per occurrence, not as a penalty, which both Parties acknowledge represents a fair and reasonable estimate of damages likely to be sustained for each time a breach may occur under this Separation Agreement and Release.

**14. Governing Law.** This Agreement will be governed by the laws of the State of Washington without regard to conflict of law principles.

**15. Successors and Assigns.** This Agreement shall be binding upon the Parties and their heirs, executors, administrators, and other legal representatives, and may be assigned and enforced by the Parties' successors and assigns.

**16. Waiver.** The failure of either Party 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.

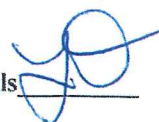
**17. Section Headings.** The section headings contained herein are for reference purposes only and will not in any way affect the meaning or interpretation of this Agreement.

**18. Entire Agreement.** Except as otherwise provided herein, this Agreement constitutes the entire agreement between the Parties and supersedes all prior or contemporaneous oral or written understandings, statements, representations or promises with respect to this Agreement's subject matter. This Agreement was the subject of negotiation between the Parties



and, therefore, the Parties agree that the rule of construction requiring that the agreement be construed against the drafter shall not apply to the interpretation of this Agreement.

*(remainder of page intentionally left blank – signatures on following page)*

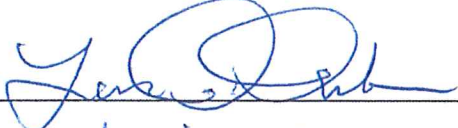
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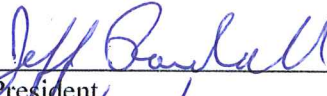
**KNOWING AND VOLUNTARY AGREEMENT. READ CAREFULLY.** Employee represents and warrants that:

- Employee has carefully read this Agreement and finds that it is written in a manner that Employee understands;
- Employee knows the contents of this Agreement;
- Employee is and has been advised to consult with Employee's personal attorney before signing this Agreement and has done so or has knowingly and voluntarily waived the right to do so;
- Employee understands that this Agreement is waiving any potential claims under the Age Discrimination in Employment Act and other discrimination statutes, except as provided in this Agreement;
- Employee has been advised that Employee is not barred from filing or prosecuting a charge with any administrative agency (such as the EEOC) with respect to any such claims or from participating in an investigation or proceeding conducted by the EEOC or another administrative agency;
- Employee was provided 21 days to review and analyze this Agreement and has been given seven days to revoke acceptance;
- Employee did not rely upon any representation or statement by Employer or anyone acting on behalf of Employer, concerning the subject matter of this Agreement, except as expressly stated in the Agreement;
- Employee understands the Agreement's final and binding effect; and
- Employee has signed this Agreement as Employee free and voluntary act.

**LARRY DUNBAR**

  
Date: 1/15/2019

**JEFFERSON COUNTY PUD NO. 1**

By:   
Its: President  
Date: 1/15/19

**EXHIBIT 1**  
**EMPLOYMENT AGREEMENT**

Employee's Initials

