

SEPARATION AND RELEASE AGREEMENT
BETWEEN
James G. Parker
and
Public Utility District No. 1 of Jefferson County

This Separation and Release Agreement (“Agreement”) is between James G. Parker (“Employee”) and Jefferson County Public Utility District No. 1 (“JPUD”), collectively, the “Parties.”

Employee is employed by JPUD as its General Manager. Employee’s status has been, and will continue to be until termination of employment, at will. The Parties mutually agree that Employee’s last date of employment will be March 5, 2018, subject to the conditions provided herein, and subject to employee’s at will status.

Both Employee and JPUD desire to resolve all matters, known or unknown, arising out of Employee’s employment with JPUD and separation from JPUD according to the terms, conditions and consideration included in this Agreement.

This Agreement replaces the Employment Agreement between Public Utility District No. 1 of Jefferson County and James Parker dated January 19, 2016 and all rights and obligations of the Parties arising out of said January 19, 2016 Agreement.

Based on the above recitals, the Parties agree that the following terms will apply only if all conditions of this Agreement are met:

Article 1. JPUD’s Obligations

1.1 Separation Date. Employee’s last day of employment by JPUD will be March 5, 2018 (“Separation Date”). Employee will continue to be employed as General Manager until his Separation Date under the conditions provided herein, and subject to Employee’s at will status.

1.2 Payment of Regular Wages, Benefits and Accrued Paid Leave. Whether Employee signs this Agreement or not, JPUD will pay Employee’s regular wages through Employee’s last day of employment, plus any accrued but unused Paid Time Off and any other pay required by law. Employee acknowledges that these payments, together with the payments Employee has already received, represent full payment of all compensation of any kind (including wages, Paid Time Off, vacation, sick leave, compensation time, and bonuses, if any) earned as a result of employment with JPUD **except** Employee will continue to receive the same or equivalent health insurance benefits as JPUD employees after the termination date until employee reaches the age of 65, with the costs of such benefits to be paid by JPUD to the extent JPUD pays those costs for current employees. Employer will determine in its sole discretion what constitutes “equivalent health insurance benefits” when or if regular JPUD health insurance benefits are not available to Employee, or upon request by the Employee to separate from JPUD health insurance benefits. Otherwise, Employee will be entitled to the same health insurance benefits at the same cost that he would have received as a regular JPUD employee. “Health insurance benefits” is defined as medical, dental, and vision insurance if offered to regular employees; to the extent not offered to regular employees, then health insurance benefits are not available to Employee under this Agreement.

1.3 Personnel File. Employee's Personnel File will reflect "restructuring" as the reason for separation from employment.

1.4 Separation Pay. In consideration for Employee's signature on this Agreement, JPUD will pay Employee the sum of \$70,000, representing 6 months of his current salary, as Separation Pay, at the first payroll following his Separation Date, less all lawful and authorized deductions, which pay employee would otherwise not be entitled to receive.

1.5 Unemployment. If requested by the Washington State Employment Security Division ("Division"), JPUD will inform the Division that it will not contest Employee's application for unemployment and will not appear at any hearing unless required to do so. JPUD will do so as long as, in JPUD's opinion, the reasons given by Employee for separation are accurate and lawful, and Employee reports all compensation received, including any separation pay that Employee receives under this Agreement. JPUD will truthfully respond to any information requested by the Division irrespective of its effect on Employee's application for unemployment and such response will not be considered a breach of this Agreement by Employer.

1.6 COBRA Continuation Coverage. Employer makes no representation that Employee will receive COBRA benefits but will provide them if required by law.

1.7 Termination of Benefits. Unless specifically provided for in this Agreement, Employee's participation in all other JPUD benefit plans and programs will end either (a) on the Separation Date, or (b) on the last day of the month in which the Separation Date fell, if so provided in the applicable benefit plan or program. Employee's rights under any benefit plans in which he may have participated will be determined in accordance with the written plan documents governing those plans.

Article 2. Employee's Obligations

2.1 Authority. Employee represents and warrants that he has all necessary authority to enter into this Agreement (including, on behalf of his marital community or registered domestic partnership, if any) and that Employee has not transferred any interest in any claims to his spouse, registered domestic partner or any third party.

2.2 No Additional Compensation or Benefits. Employee expressly acknowledges and agrees that he has no claims or entitlement to additional compensation or benefits of any kind from JPUD, past, present or future, except as set out in this Agreement with the exception of any Paid Time Off not used as of the Separation Date

2.3 Benefits. Employee acknowledges his responsibility to determine for himself the effect this Agreement may have on any benefits to which he may currently receive, or may be entitled to receive in the future, including but not limited pension, Medicare, and any other such benefits.

2.4 Representations Regarding Employment Status. Employee understands that he is not authorized to represent himself as affiliated in any way with JPUD after the Separation Date.

2.5 References. Employee agrees to instruct all prospective employers to direct requests for references to JPUD's Human Resources Manager or the Assistant General Manager. However, Employee agrees and acknowledges that JPUD may state that its policy is to provide only dates of employment and current or last position held. Employee hereby consents to the release of that information.

2.6 Return of Property. Employee agrees to promptly deliver to the Human Resources Manager all JPUD property within his possession upon request, and in no case beyond his separation date,

including keys, keycards, cell phones, laptop computers, boots, clothing, and written and electronic documents. Employee understands that property must be returned in good working condition.

2.7 Cooperation Regarding Other Claims and Preservation of Privilege. If any claim is asserted by or against JPUD as to which he has relevant knowledge, Employee will reasonably cooperate with JPUD in the prosecution or defense of that claim by providing truthful information and testimony as reasonably requested by JPUD. JPUD will pay the reasonable expenses Employee incurs with respect to such cooperation. Employee will also continue to respect and preserve the attorney-client privilege, the work product doctrine, and any other confidential information to which he was privy during employment.

2.8 Non-Disclosure. Employee agrees, except as required by law or directed in writing by JPUD, that he will not disclose to any person other than his spouse, attorney any information about JPUD not generally known to the public and will not disclose any information deemed by JPUD to be confidential, sensitive and proprietary or a trade secret. "Disclosure" for the purposes of this Agreement includes, but is not limited to, information conveyed by Employee through gossip, innuendo, or rumor, whether in person, electronically, or through any other manner of communication.

2.9 Non-Interference and Non-Solicitation. Employee will not (a) interfere directly or indirectly with JPUD's workplace or business, including requests for information that have no reasonable basis other than to interfere with JPUD's workplace or business or its employees, Board members, partners, agents, vendors, attorneys, consultants, or any other person or entity affiliated with JPUD; or (b) interfere directly or indirectly with the employment of any JPUD employee, including but not limited to, any solicitation or assistance in the solicitation of any employee to leave employment with JPUD.

2.10 Injunctive Relief. Employee agrees that in the event Employee breaches any of the provisions in this Agreement, damages may be difficult, if not impossible, to ascertain. Employee agrees that, in addition to and without limiting any other remedy or right it may have, JPUD shall have the right to an immediate injunction or such other equitable relief enjoining any such threatened or actual breach. The existence of this right shall not preclude JPUD from pursuing any other rights and remedies at law or in equity which it may have, including the recovery of damages.

2.11 Agreement Confidentiality. As further specific consideration, Employee agrees that the terms of this Agreement are intended to be confidential between the Parties to the extent allowed by law.

2.12 (a) Non-Disparagement. As further specific consideration for JPUD's obligations to Employee under the terms of this Agreement, Employee agrees not to directly or indirectly make any disparaging statements about his employment at JPUD, about this Agreement, as well as about current and former JPUD staff, Board members, partners, agents, vendors, attorneys, consultants, agents, or any other person or entity affiliated with JPUD, before or after separation from employment, either written or verbal.

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

2.13 Use of Third Parties. It is a violation of this Agreement for Employee to direct or influence a third party to participate in any action that would be a violation if Employee engaged in the same action.

2.14 Consideration Period. It is a breach of this Agreement if either party participated in any action while considering this Agreement that would be a violation of this Agreement once it becomes effective, even if the other party does not become aware of such action until after the Agreement becomes effective.

2.15 Liquidated Damages. In addition, for each breach of this Agreement, Employee shall be obligated to pay \$5,000 per occurrence as liquidated damages and not as a penalty, which he acknowledges represents a fair and reasonable estimate of damages likely to be sustained by JPUD for each time that Employee breaches the Agreement. The existence of this right shall not preclude JPUD from pursuing any other rights and remedies at law or in equity which it may have against Employee.

For each breach of paragraph 2.11(b) of this Agreement by a current JPUD Board member and Director-level manager, JPUD shall be obligated to pay \$5,000 per occurrence as liquidated damages and not as a penalty, which JPUD acknowledges represents a fair and reasonable estimate of damages likely to be sustained by Employee for each time that JPUD breaches that paragraph. The existence of this right shall not preclude Employee from pursuing any other rights and remedies at law or in equity which he may have against JPUD.

2.16 Material Breach. Employee understands that if he materially breaches the terms of this Agreement, JPUD reserves the right to exercise any and all remedies available to it under law including, but not limited to, suspending payment of any consideration not already provided to Employee.

2.17 Waiver and Release.

(a) Employee hereby releases and forever discharges any and all of the "Released Parties" (defined below) from any and all claims of any kind, known or unknown, that arose on or before the date that he signed this Agreement, including but not limited to, claims for:

- wrongful termination or constructive discharge, including claims based on violation of public policy; breach of agreements, including Collective Bargaining Agreements, representations, policies or practices related to Employee's relationship with any Released Party; or based on any legal obligation owed by any Released Party;
- violation of federal, state, or local laws, ordinances, or executive orders prohibiting discrimination, harassment or retaliation, or requiring accommodation, on the basis of race, ancestry, creed, color, religion, national origin, pregnancy, childbirth or related medical conditions, families with children, sex, genetic information, marital status, sexual orientation, gender expression or gender identity, political ideology, age, honorably discharged veteran or military status, sensory, physical, or mental impairment or other legally protected characteristic or activity;
- wages (including overtime pay) or compensation of any kind (including attorney's fees or costs);
- tortious interference with contract or expectancy; fraud or negligent misrepresentation; breach of privacy, defamation or libel; intentional or negligent infliction of emotional distress; unfair labor practices; breach of fiduciary duty;
- violation of the Washington Law Against Discrimination; the Washington Prohibited Employment Practices Law; the Washington Minimum Wage Act; Washington's Little Norris-LaGuardia Act; the Washington Family Leave Act; the Washington Family Care Act; the Washington Military Family Leave Act; the Washington law permitting leave for victims of domestic violence, sexual assault or stalking; the Washington Fair Credit Reporting Act; the retaliation provisions of the Washington Workers' Compensation Act; the Washington Industrial Safety and Health Act (WISHA); 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;

- violation of the Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA); the Fair Labor Standards Act (FLSA); the Labor Management Relations Act (LMRA); the Employee Polygraph Protection Act; the Racketeer Influenced and Corrupt Organizations Act (RICO); the Electronic Communications Privacy Act; the Uniform Services Employment and Re-Employment Rights Act (USERRA); the Sarbanes-Oxley Act; the Civil Rights Act of 1964; Title VII; Sections 1981 through 1988 of Title 42 of the United States Code; the Civil Rights Act of 1991; the Equal Pay Act of 1963; the Lilly Ledbetter Fair Pay Act; the Americans with Disabilities Act of 1990 (ADA); the federal Family and Medical Leave Act of 1993 (FMLA); the Worker Adjustment and Retraining Notification Act (WARN); the Occupational Safety and Health Act (OSHA); the Sarbanes-Oxley Act of 2002; the Employee Retirement Income Security Act of 1974 (ERISA); the National Labor Relations Act (NLRA); the Immigration Reform and Control Act (IRCA); including any and all amendments to the above, to the fullest extent permitted by law;
- **the Age Discrimination in Employment Act of 1967 (ADEA); the Older Workers Benefit Protection Act (OWBPA); and**
- Violations of any and all similar federal, state and local laws, to the fullest extent permitted by law.

(b) "Released Party" or "Released Parties" includes JPUD, its predecessor entities, its government partners, and the benefit plans of each such entity; and with respect to each such entity, all past, present and future 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, successors and assigns.

(c) Employee agrees that, except as may be required by subpoena, court order, or other force of law, Employee will not in any way assist any individual or entity in commencing or prosecuting any claim, action, or proceeding, or contemplating such claim, action, or proceeding, against any JPUD arising out of, or related to, his employment with JPUD or this Agreement. Employee's obligation herein shall commence at the time he executes this Agreement and extend until the Agreement is terminated or until he no longer receives benefits under this Agreement, whichever is greater.

(d) Employee understands that he is releasing potentially unknown claims, and that Employee has limited knowledge with respect to at least some of the claims being released. Employee acknowledges that there is a risk that, after signing this Agreement, he may learn information that might have affected Employee's decision to enter into this Agreement. Employee assumes this risk and all other risks of any mistake in entering into this Agreement. Employee acknowledges his understanding of this Agreement, and the release and discharge contained herein, and knowingly enters into this Agreement. Employee is giving up all rights and claims of any kind, known or unknown, except for the rights expressly provided in this Agreement, if any. Employee further acknowledges he had a reasonable opportunity to review this Agreement, and to have it reviewed by anyone who Employee would rely on for advice about entering into this Agreement, including a competent attorney.

(e) This Agreement does not affect Employee's rights, if any, to receive 401(k) benefits, medical plan benefits, unemployment compensation or workers' compensation benefits, nor does it release any claims or rights which as a matter of law cannot be waived.

2.18 Affirmations.

- (a) Employee affirms that he will report all hours worked as of the Separation Date.
- (b) Employee understands that JPUD will deduct lawful and authorized deductions, including federal and any state taxes, from payments made under this Agreement. JPUD makes no representations as to the tax consequences to Employee. Employee acknowledges that he had adequate time to consult a financial advisor, attorney, or accountant before signing this Agreement.
- (c) Employee affirms that he has disclosed, and will disclose, any workplace injuries or occupational diseases that exist as of his Separation Date, and has been provided, and has not been denied, any leave requested under the federal or state Family and Medical Leave Acts, or any legally required reasonable accommodation.
- (d) Employee agrees not to apply for any position of employment with JPUD in the future.
- (e) Employee affirms that he has not and will not initiate any claims, suit, action, or arbitration before any federal, state or local judicial, administrative or other forum with respect to any matter arising out of or connected with his employment with JPUD or the termination of that employment.

2.19 Employee's Obligations Prior to His Separation Date.

- (a) Employee will report to work five days per week between Monday and Friday through October 17, 2017 and thereafter use Paid Time Off (PTO) until his Separation Date, as more fully explained in sub-section (d) herein. Employee represents that he has an adequate Paid Time Off bank to fulfill the requirements of this Agreement.
- (b) Beginning the first business day following board approval of this Agreement, but no later than September 20, 2017 Employee will transfer his authority as General Manager to the Assistant General Manager, through the last day of September, 2017 at which time all authority will be so transferred. The transfer of such authority will be verified by the General Manager and the Assistant General Manager so reporting to the Board President weekly, or to the Board as may be requested by the Board until the transition of authority is complete. While said transfer of authority is in process, the General Manager will assist the Assistant General Manager as requested by the Assistant General Manager, the Board President, or the Board.
- (c) The General Manager will offer his input, advice, and other assistance as needed for the Assistant General Manager to evaluate the performance of any JPUD employee but will not participate directly in the evaluation of any such employee, except with respect to any employees who reported directly to the General Manager, the General Manager and Assistant General Manager will prepare a joint performance evaluation.
- (d) Beginning October 18, 2017, Employee will use accumulated Paid Time Off through his Separation Date and will not return to work unless requested. Employer makes no representation with respect to how, or whether, Employee's use of Paid Time Off as described in this Section may affect retirement benefits or any other benefits Employee may be entitled. It is Employee's responsibility to determine this. Employee will manage his Paid Time Off in such a way that he will have a sufficient balance to fulfill his obligations under this Agreement.
- (e) Until his Separation Date, and except as otherwise provided in subparagraph (b) of this paragraph, Employee will fulfill all of the responsibilities of a General Manager as provided in this Agreement and will retain such title. He will provide advice, support, mentorship, and assistance to the

Assistant General Manager as requested by the Assistant General Manager or the Board of Directors. He will notify the Assistant General Manager of all contingencies that may adversely affect the Employer that he may be aware of but which may not be known to the Assistant General Manager.

Article 3. General Provisions

3.1 Non-Admission. This Agreement shall not be construed as an admission by Employer or any Released Party of any liability, breach of any agreement, or violation of any statute, law or regulation, nor shall it be construed as an admission of any deficient performance or breach of any professional obligation.

3.2 Governing Law. This Agreement is governed by the laws of the State of Washington that apply to contracts executed and to be performed entirely within the State of Washington.

3.3 Headings Not Controlling. The headings in the Agreement are for convenience only and shall not affect the meaning of the terms as set out in the text.

3.4 Attorney's Fees. In any dispute involving this Agreement, each Party shall be responsible for their own attorney's fees and costs, except as otherwise provided by law.

3.5 Severability. It is further understood and agreed that if any of the provisions of this Agreement are held to be invalid or unenforceable, the remaining provisions shall nevertheless continue to be valid and enforceable.

3.6 Complete Agreement. This Agreement represents and contains the entire understanding between the Parties in connection with the subject matter of this Agreement. It is expressly acknowledged and recognized by all Parties that there are no oral or written collateral agreements, understandings or representations between the Parties other than as contained in this document. Any modifications to this Agreement must be in writing and signed by both Parties to be effective.

3.7 Counterparts. This Agreement may be executed in duplicate originals, each of which is equally admissible in evidence, and each original shall fully bind each party who executed it.

Article 4. Older Workers' Benefit Protection Act Provisions

In accordance with the requirements of the Older Workers' Benefit Protection Act, Employee expressly acknowledges the following:

4.1 Independent Legal Counsel. Employee is advised to consult with an independent attorney before signing this Agreement. Employee acknowledges that, if he desired to consult an attorney, he had an adequate opportunity to do so.

4.2 Consideration Period. Employee has twenty-one (21) calendar days from the date the original Agreement was given to him to consider this Agreement before signing it. Employee may use as much or as little of this twenty-one (21) day period as he wishes before signing. However, in that Employee has been represented by his own legal counsel in the negotiation of this Agreement, Employee will sign this Agreement upon Board approval, no later than September 20, 2017. If Employee does not sign and return this Agreement within this twenty-one (21) day period, it will not become effective or enforceable, and Employee will not receive the benefits described in this Agreement except as required by law. Employee received this Agreement from the Board President on September 19, 2017, from which date the 21 day consideration began.

4.3 Revocation Period and Effective Date. **Employee has seven (7) calendar days after signing this Agreement to revoke it.** To revoke this Agreement after signing it, Employee must deliver a written notice of revocation to JPUD’s Board President before the seven (7) day period expires. This Agreement shall not become effective until the eighth (8th) calendar day after Employee signs it (“Effective Date”). If Employee revokes this Agreement, it will not become effective or enforceable, and he will not receive the benefits described in this Agreement except as required by law.

4.4 Acceptance. Employee agrees he has had a reasonable opportunity to review this Agreement, understands its terms, and voluntarily enters into this Agreement. Employee agrees that any modifications, material or otherwise, made to this Agreement do not restart or affect in any manner the original twenty-one (21) calendar day consideration period.

4.5 JPUD Approval. Employee understands and agrees that JPUD is a public entity that is required to approve this Agreement in a public meeting of the JPUD Board of Directors. Such approval in a public meeting will not be considered in any manner whatsoever a violation by JPUD of this Agreement. Further, this Agreement may be a public record under the Washington Public Records Act. If this Agreement is provided to a requester pursuant to the Public Records Act, such will not be considered in any manner whatsoever a violation by JPUD of this Agreement.

This Agreement consists of eight (8) pages, not including any exhibits.

EMPLOYEE:

James G. Parker

Date

PUBLIC UTILITY DISTRICT OF JEFFERSON COUNTY NO. 1:

Kenneth Collins, President

Date