

**NORTH BEACH WATER DISTRICT
PACIFIC COUNTY, WASHINGTON**

RESOLUTION NO. 20-2019

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF NORTH BEACH WATER DISTRICT, PACIFIC COUNTY, WASHINGTON, APPROVING AN EMPLOYMENT AGREEMENT FOR THE POSITION OF GENERAL MANAGER AND RATIFYING BOARD PRESIDENTS ACTION

WHEREAS, William Neal, current General Manager has announced his retirement effective December 31, 2019; and

WHEREAS, on November 6, 2019 the North Beach Water District's (District) Board of Commissioners (Board) authorized and directed William Neal, in Resolution 14-2019, to begin recruiting a new general manager; and

WHEREAS, William Neal advertised locally, regionally, and nationally for qualified candidates; and

WHEREAS, on November 18, 2019, at its regular meeting, the Board evaluated applications for the position of General Manager. The Board selected applicant Rickard Gray to be interviewed; and

WHEREAS, an interview was conducted with Rickard Gray at a special meeting on Thursday November 21, 2019; and

WHEREAS, a proposed Employment Agreement between North Beach Water District and Richard Gray has been negotiated by legal counsel detailing the terms and conditions of employment including salary and benefits; and

WHEREAS, on December 16, 2019, Glenn Ripley, Board President and Ricard Gray, did execute said Employment Agreement, attached hereto and incorporated herein as Exhibit A, beginning Richard Gray's employment as General Manager;

NOW, THEREFORE, THE NORTH BEACH WATER DISTRICT BOARD OF COMMISSIONERS DOES HEREBY RESOLVE AS FOLLOWS,

EXHIBIT "A"

NORTH BEACH WATER DISTRICT EMPLOYMENT AGREEMENT FOR GENERAL MANAGER

THIS AGREEMENT (Agreement) is entered into by and between North Beach Water District (District or Employer or Board of Commissioners or Board) and Richard Gray (Employee or General Manager).

WHEREAS, the Employee is an individual who has the education, training, and experience in management and operation of public water systems; and

WHEREAS, the District wishes to employ the Employee as General Manager;
and

WHEREAS, the purpose of this agreement is to establish the terms and conditions under which the Employee will undertake the duties as the District's General Manager;

NOE THEREFORE, in consideration of the mutual promises and agreements set forth herein, the District and the Employee do hereby agree as follows.

AGREEMENT

Section 1: Term

- A. **Effective Date.** This Agreement shall remain in full force and effect from the date of execution noted in the signature block herein until terminated by the District or Employee as provided in Sections 6, and 7 of this Agreement.
- B. **Employment Start Date.** The Employee shall commence their employment as General Manager on 12/16/19.

Section 2: Duties and Authority.

- A. As General Manager, the Employee shall perform the functions and duties as the District's chief administrative officer and shall be in charge of the District's daily management and operations, and such other legally permissible and proper duties as the Board of Commissioners of the District may assign to him, which are consistent with the duties, powers and responsibilities of his position.
- B. As General Manager, the Employee shall be responsible to the Board of Commissioners for the performance of his duties. He agrees to observe and comply

with the rules and regulations duly adopted by the District with respect to the performance of his duties. He agrees to carry out and to perform orders, directions, and policies stated, adopted, and communicated by the Board. of Commissioners to him, which are consistent with the duties, powers, and responsibilities of his position.

Section 3: Compensation

- A. **Base Salary.** The District agrees to pay the employee for their services an annual salary of Ninety Thousand Dollars (\$90,000.00), in installments on normal District payroll dates.
- B. **Automatic Amendment.** This Agreement shall be automatically amended to reflect any salary adjustments provided or approved by the District.

Section 4: Benefits

- A. **Benefits.** The District shall provide the Employee with the same benefits as are provided for District employees in the District's Employee Policies and Procedures Manual as regards medical, dental, vision and life insurance, paid holidays, and Public Employees Retirement System (PERS).
- B. **Personal Time Off (PTO).** The District will provide the employee fifteen (15) days of PTO on the commencement of their employment. The Employee will accrue two (2) days of PTO per month of employment. Sick leave, compassionate leave, and vacation time off shall be included in PTO.
- C. **Work Vehicle.** The District shall provide the Employee with a District owned vehicle for use for District business. Employee will not utilize the District vehicle for personal use, except for commuting directly to and from the District from their home.

Section 5: General Business Expenses

- A. **Professional Organizations and Development.** Subject to sufficient budget resources, the District agrees to budget for and to pay the following:
 - 1. Professional dues and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations and organizations necessary and desirable for the Employee's continued professional, growth, and advancement, and for the good of the District.
 - 2. Travel and subsistence expenses of the Employee for professional and official travel, meetings, and occasions to adequately continue the professional development of the Employee and to pursue necessary official functions for the District, including but not limited to events sponsored by the Evergreen Rural Water

of Washington, Washington Environmental Training Center, and other organizations in which the Employee serves as a member.

3. Travel and subsistence expenses of the Employee for short courses and seminars that are necessary for the Employee's professional development and for the good of the District.

B. **General Expenses.** The District recognizes that certain expenses of a non-personal and job-related nature may be incurred by the Employee and agrees to reimburse or to pay said general expenses upon receipt of duly executed expense reports, petty cash vouchers, receipts, and statements, provided said expense was incurred as a part of the Employees normal work in support of the District .

C. **Civic Organizations.** The District acknowledges the value of having the Employee participate and be involved in local civic clubs and organizations. Accordingly, The District shall pay reasonable membership fees, meals, and dues to enable the Employee to become an active member in local civic clubs or organizations as authorized by the Board.

Section 6: Termination

A. **Generally.** For the purpose of this Agreement, termination shall occur upon any of the following actions:

1. Employee and District agree that Employee is an at-will employee and that employment can be terminated at any time by either party for any reason pursuant to a vote of District Commissioners as set forth above. This at-will relationship may only be modified by the express terms of this Agreement.

2. A simple majority of the Board of Commissioners votes to terminate the Employee, with or without cause, at a duly authorized public meeting.

3. If Employee resigns following an offer to accept resignation by the Board of Commissioners, whether formal or informal, the Employee's termination date shall be the date the Board of Commissioners accepts Employee's resignation.

B. **Events for Termination.**

1. This contract shall terminate upon Employee's death.

2. Employee's employment can be terminated at any time by either party for any reason or for no reason, upon fourteen (14) days' advance written notice, provided that either party may terminate this Agreement without such advance notice upon a breach by the other party.

3. Upon the termination or expiration of Employee's employment for any reason, Employee's agrees to promptly return to the District all equipment, office supplies, keys, documents, records, reports, computer discs, files, books, correspondence, lists, or other written or graphic records, including originals and copies, relating to the District business office, which are or have been in Employee's possession or control. Employee's expressly acknowledges the District exclusive ownership of all such items.

Section 7: Severance

A. Pursuant to the conditions listed below, a severance payment shall be paid to the Employee when their employment is terminated, as defined in Section 6 herein, equal to six (6) months' salary at a rate of one hundred percent (100%) of the Employees salary at termination. The severance payment will be made within thirty (30) days of the date of termination.

B. **Severance Conditions.** Severance shall be paid to the Employee under the following conditions.

1. In the case of voluntary resignation by the Employee:

(a) the Employee's termination date, as provided for in Section 6 herein, is more than five (5) years after the Employee's Employment Start Date, as provided for in section 1 herein and,

(b) Notwithstanding the 14-day notice of termination requirement as provided for in Section 6, B.2, above, the Employee provides the District a minimum of sixty (60) days' written notice of voluntary termination.

2. In the case of involuntary termination of the Employee:

(a) The Employee was not terminated for actual and substantial breach on the part of the Employee.

Section 8: Evaluation

The Board of Commissioners may review and evaluate the performance of the Employee at any time. Generally, the Board of Commissioners will evaluate the Employee at least once annually, normally occurring in the last quarter of the year. Such performance evaluation shall be based upon specific goals and criteria developed jointly by the Board of Commissioners and the Employee.

Section 9: Hours of Work

It is recognized that the Employee must devote a great deal of time outside normal office hours on business for the District, and to that end the Employee shall be allowed to establish an appropriate work schedule. As a guideline, at a minimum the District expects approximately forty (40) hours of services per week, Monday through Friday, based out of the District business office and during such hours that are most useful to work with the public, government regulators, commissioners, and the staff. The Employee's FLSA classification is "Exempt" and this position is not covered by the FLSA or eligible for overtime compensation. However, because the Employee must also devote considerable professional time outside of normal office hours, the District agrees that the Employee will be allowed to take occasional time off during normal work hours, provided such time off is not disruptive to the needs of the District. Absences of one (1) full workday or longer, in one-day increments, shall be charged as Employee Personal Time Off defined in Section 4 herein.

Section 10: Exclusive Services; Outside Activities

Employee covenants and agrees that during the period covered by this Agreement, Employee shall not engage in the provision of similar services provided to the District. The parties agree that the District will collect and retain all fees and charges for the Services rendered by Employee during the term of this Agreement; and Employee expressly assigns to the District all professional fees generated by Employee in connection with the provision of Employee's Services. Notwithstanding the foregoing and recognizing that certain outside consulting or teaching opportunities provides indirect benefits to the District and the community, the Employee may elect to accept limited teaching, consulting, or other business opportunities with the understanding that such arrangements shall not constitute interference with, nor a conflict of interest with, their responsibilities under this Agreement.

Section 11: Compliance with Laws and District Policies

In performing the services contemplated by this Agreement, the Employee shall faithfully observe and comply with all federal, state, and local laws, ordinances, and regulations applicable to the services to be rendered under this Agreement. The Employee shall also abide by the District's policies and procedures as currently adopted and as amended from time to time, unless they conflict with this Agreement, in which case this Agreement shall prevail.

Section 12: Discrimination Prohibited

With regard to work performed by the Employee under this Agreement, the Employee shall not discriminate on the grounds of race, color, national origin, religion, creed, age, gender, marital status, sexual orientation, or the presence of any physical, sensory, or mental disability in any aspect of the Employee's work including, but not limited to,

selection and retention of employees, procurement of materials or supplies, or the letting of contracts.

Section 13: Indemnification and Professional Liability Insurance

The District agrees to indemnify, insure, and hold harmless, including separate legal counsel if the District cannot represent the Employee, for any and all civil legal actions brought against the Employee arising from the lawful discharge of their duties during their employment as General Manager. The District shall also provide professional liability insurance to cover actions taken by the Employee during the course and scope of their employment.

Section 14: Bonding

The District shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 15: Other Terms and Conditions

- A. **Confidentiality.** The Employee agrees that their position is a managerial position and acknowledges that they will occupy a position of confidentiality involving personnel and legal matters.
- B. **Residency.** The Employee will reside within a thirty (30) minute travel distance from their residence to the District's business office during the life of this Agreement.

Section 16: General Provisions

- A. **Entire Agreement.** This Agreement constitutes the entire Agreement of the parties with respect to the subject matter of this Agreement and supersedes any prior written or oral agreements or understandings between the parties.
- B. **Amendments.** The parties by mutual written agreement may amend any provision of this Agreement during the life of the Agreement. Such amendments shall be incorporated and made a part of this Agreement.
- C. **No Waiver.** The waiver by any party of a breach or violation of any term of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach.
- D. **Severability.** If any term of this Agreement is held to be illegal, void, or unenforceable for any reason, in full or in part, such holding shall not affect the validity and enforceability of any remaining provisions of this Agreement and said remaining provisions shall be deemed to be in full force and effect.

- E. **Assignment.** This Agreement is for the services of a specific individual chosen for their unique qualifications and is not assignable. Subject to the foregoing, payments due shall inure to the benefit of and be binding upon their respective successors in interest, heirs, and assigns.
- F. **Attorneys' Fees.** In the event of mediation, arbitration, or litigation between the parties arising out of or in any way related to any term set forth in this Agreement, each party shall pay all of its own attorney's fees, costs, and expenses.
- G. **Governing Law.** This Agreement shall be made in and shall be governed by and interpreted in accordance with the laws of the State of Washington. The venue for any dispute related to this Agreement shall be Pacific County, Washington.
- H. **Independent Counsel.** The Employee acknowledges that the drafter of this Agreement is the District's legal representative to whom the Employee does not look to for any legal counseling or legal advice with regard to this transaction. The Employee further acknowledges that they have been advised to consult with independent legal counsel and has had an opportunity to do so. By signing this Agreement, the Employee acknowledges that they have consulted with independent legal counsel of their choice or has knowingly waived the right to do so. There shall be no presumption of draftsmanship in favor of or implied against any party hereto.
- I. **Headings.** The headings in this Agreement are intended solely for convenience of reference and shall be given no effect in the interpretation of this Agreement.
- J. **Dispute Resolution.** Dispute resolutions shall be venued in Pacific County, Washington. The parties agree to mediate any dispute within sixty (60) days of receipt of notice to both parties of a party's desire to mediate by jointly selecting a mediator experienced in these matters. If they cannot agree to the mediator, either party may petition the Pacific County Superior Court presiding judge to appoint a mediator. If mediation is unsuccessful, then the dispute shall be conducted under the auspices of the then prevailing mandatory arbitration rules of the Pacific County Superior Court, regardless of the amount in controversy. If the parties cannot agree as to who the arbitrator shall be, either party may ask the Pacific County Superior Court presiding judge to appoint an arbitrator. Mediation fees and costs shall be split equally between each party involved in the mediation. Arbitration fees shall be as awarded by the arbitrator to the extent that he/she finds one or more parties prevail. The award shall include an award of the reasonable attorney fees and costs the prevailing party has incurred in relation to the dispute, including the fees and costs related to mediation and arbitration. For purposes of this Section J, notice to be given by either party shall be in writing and shall be deemed to be fully given on the date of service if served personally on the party to whom notice is to be given, or on the third

(3rd) day after mailing, if sent by certified or registered mail, at the address of the party.

Section 18: Effective Date and Approval Date

A. This Agreement is effective as of 12/16/19.

B. This Agreement was approved by the Board of Commissioners of the North Beach Water District at a public meeting on 12/23/19 by Resolution number 20-2019


Richard Gray, Employee


Glenn Ripley, Commissioner

Section 1. The Employment Agreement between North Beach Water District and Richard Gray found in Exhibit A, is hereby approved.

Section 2. The Board hereby ratifies the Board President, Glenn Ripley's execution of the Employment Agreement found in Exhibit A.

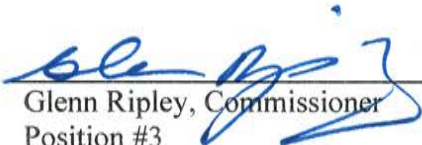
ADOPTED by the Board of Commissioners of North Beach Water District, Pacific County, Washington at its adjourned regular meeting held on the 23rd day of December 2019.



Brian Sheldon, Commissioner
Position #1



Gwen Brake, Commissioner
Position #2



Glenn Ripley, Commissioner
Position #3