

EMPLOYMENT AGREEMENT

THIS AGREEMENT is made and entered into this 25 day of June, 2013, by and between the Board of County Commissioners of the County of Bernalillo, New Mexico (hereinafter, the "Board") and Tom Zdunek, a professional manager (hereinafter referred to as "Zdunek").

WITNESSETH:

WHEREAS, the Board is responsible for governing Bernalillo County, New Mexico (the "County"), and desires to obtain the assistance of a professional manager to administer and operate the County government under the Board's policies and direction; and

WHEREAS, Zdunek is duly qualified by training and experience to provide such services,

NOW THEREFORE, for the consideration stated below, the parties agree as follows.

1. **TERM:** This Agreement shall be in effect from July 1, 2013, through June 30, 2015, unless earlier terminated as provided below. This Agreement replaces and supersedes the existing Employment Agreement dated September 6, 2011, between the parties. The parties may negotiate and agree to extend this Agreement on any terms that are mutually agreeable.

2. **COMPENSATION:** Zdunek shall receive an initial annual salary of One Hundred Fifty-eight Thousand Dollars (\$158,000.00). The Board agrees to review Zdunek's compensation annually, or more often if it so determines, and may make adjustments to that compensation in its discretion.

3. **DUTIES AND RESPONSIBILITIES:** Zdunek shall perform the duties of the position of County Manager, to conduct the business of the County pursuant to the direction of the Board. Zdunek recognizes that the Board sets the policy and direction of the County through ordinances and regulations. Pursuant to Article III, Division 2 of the Bernalillo County Code and the Employment Relations Rules and Regulations, the Board appoints Zdunek as its designated representative for purposes of administration and implementation thereof. Zdunek understands that the County is his principal employer and he agrees to devote his full time and attention in his professional life to the management of the County.

4. **CLASSIFICATION:** Zdunek shall be considered an unclassified employee as defined by Bernalillo County Code, Article III, Division 3, and its corresponding rules and regulations. Zdunek shall be entitled to all privileges and benefits afforded unclassified employees of the County.

5. **OTHER BENEFITS:**

A. **Expense Reimbursement:** The County shall reimburse Zdunek for reasonable expenses incurred by him in the performance of his duties under this Agreement. Zdunek agrees to provide appropriate documentation for any and all expenses for which he requests reimbursement under this provision.

B. **Professional Memberships and Dues:** The County shall pay for Zdunek's membership in professional societies and associations, such as ICMA, and shall also pay fees necessary to maintain any licenses or bonds currently held by Zdunek and used by him for the benefit of the County.

C. **Vehicle:** The County shall furnish Zdunek with a County vehicle to be used by him for the performance of his duties and reasonable de minimis personal use.

6. **TERMINATION FOR CAUSE:** The Board may terminate this Agreement for cause at any time. For purposes of this Agreement, "cause" shall include, but is not limited to: any misconduct or malfeasance; waste or misuse of County assets; fraud; misrepresentation; embezzlement; commission of an act of moral turpitude, or any other good and just cause as determined by the Board. If the Board terminates this Agreement for cause, as provided herein, it shall provide Zdunek with written notice of the basis for the termination. If the Board terminates this Agreement for cause as provided herein, it shall have no further obligation to Zdunek, except as otherwise provided by law.

7. **TERMINATION WITHOUT CAUSE:** The Board may terminate this Agreement without cause upon 90 days' written notice to Zdunek.

8. **SEVERANCE UPON TERMINATION WITHOUT CAUSE:** In the event that the Board exercises its right to terminate this Agreement without cause, the Board agrees to pay Zdunek a severance payment equal to twelve months' salary and benefits, the salary to be calculated at his then-current rate of pay, and the benefits shall be equal to the value of benefits he is receiving at the time of the Board's decision to terminate the Agreement without cause, including the cost of health insurance. If the Board exercises its right to terminate this Agreement without cause less than twelve months prior to the end of the term of this Agreement, the Board agrees to pay Zdunek a severance package including salary and benefits at his then-current rate of pay and the

cost of health insurance for the coverage Zdunek has in place at the time of termination equal to the time remaining in the term of this Agreement. For purposes of this provision, "benefits" shall not include the value of the County vehicle or County cell phone or other equipment provided to Zdunek for his use pursuant to this Agreement. Zdunek shall cease to accrue sick leave or annual leave following the date that the Board gives notice of its intent to terminate this Agreement without cause. The payments described herein may be paid to Zdunek in a lump sum or in regular monthly installments at the discretion of the Board.

9. **TERMINATION BY ZDUNEK:** Zdunek may terminate this Agreement at any time upon 90 days' written notice to the Board.

10. **WAIVER OF BREACH OF AGREEMENT:** If either party waives a breach of this Agreement by the other party, that waiver shall not operate or be construed as a waiver of subsequent breaches.

11. **BOARD MAY ASSIGN AGREEMENT:** The Board's rights and obligations under this Agreement will inure to the benefit of and be binding upon its successors and assignees.

12. **NON-APPROPRIATIONS:** The terms of this Agreement are subject to the approval and existence of adequate funding by the County.

13. **NOTICES:** All notices under this Agreement shall be mailed to the parties at the following respective addresses:

Board

Board of County Commissioners of
The County of Bernalillo
Attn: Chair
One Civic Plaza NW, 10th floor

Zdunek

██
Albuquerque, New Mexico ██████████

Albuquerque, New Mexico 87102

14. **POLITICAL CONTRIBUTION/SOLICITATION PROHIBITED:**

Zdunek shall not contribute to any County political campaign, nor shall he solicit contributions from any vendor or any other person for a political contribution on behalf of any individual or any political cause.

15. **SEVERABILITY:** The invalidity or unenforceability of any provision or provisions of this Agreement shall not affect the other provisions, and this Agreement shall be construed in all respects as if any invalid or unenforceable provisions were omitted.

16. **ENTIRE AGREEMENT:** This document constitutes the entire Agreement between the parties relating to the subject matter herein. This Agreement may only be amended in writing by a document signed by both parties. No oral agreement or promise shall have any effect on the terms of this Agreement.

The remainder of this page is left blank intentionally. Signatures appear on page 6.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this 25
day of June, 2013, in Bernalillo County, New Mexico.

EMPLOYEE

[Signature]
Tom Zdunek

BOARD OF COUNTY COMMISSIONERS

[Signature]
Maggie Hart Stebbins, Chair

[Signature]
Debbie O'Malley, Vice Chair

[Signature]
Art De La Cruz, Member

[Signature]
Lonnie C. Talbert, Member

[Signature]
Wayne A. Johnson, Member

Approved as to form
[Signature]
County Legal Department

ATTEST:
[Signature]
Maggie Toulouse Oliver
County Clerk
6/25/2013
Date

