



**REGIONAL TRANSPORTATION COMMISSION**

*Metropolitan Planning • Public Transportation & Operations • Engineering & Construction*

Metropolitan Planning Organization of Washoe County, Nevada

March 20, 2020

**AGENDA ITEM 5.1**

**TO:** Regional Transportation Commission

**FROM:** Angela Reich, SPHR, SHRM-SCP  
Director of Administrative Services

**SUBJECT:** Executive Director Employment Agreement

**RECOMMENDATION**

Discussion and possible action to approve, reject or modify the Executive Director Employment Agreement for William Thomas.

**SUMMARY**

The Board unanimously appointed William Thomas as the Executive Director at a February 13, 2020, special meeting. Following up to the special meeting, Chairman Lucey and Zev Kaplan Esq. negotiated an Executive Director Employment Agreement with Mr. Thomas which is included as an attachment.

**FISCAL IMPACT**

Funding is included in the Fiscal Year 2020 Board approved budget for the Executive Department and will be included in the Fiscal Year 2021 budget.

**PREVIOUS ACTIONS BY BOARD**

**February 13, 2020**

The Board interviewed five candidates and unanimously appointed William Thomas as the RTC Executive Director.

Direction was given for Zev Kaplan Esq., attorney-of-record and the chairman to negotiate the terms of an employment contract agreement with Mr. Thomas and bring back to the Board at the earliest possible scheduled Board meeting.

- January 17, 2020** Direction given for the Board to interview the list of six applicants as found by staff.
- Direction to have staff consult with the Chair and the Vice Chair about process and timing for these six candidates and to schedule a special meeting for February 13, 2020.
- November 15, 2019** Appointed Amy Cummings as the Interim Executive Director upon the departure of Lee Gibson, with a 10% pay increase, until such time a permanent Executive Director is appointed.
- Directed the Director of Administrative Services to work with Chairman Lucey to compile and distribute advertising materials as soon as possible and bring a recruiting plan to the December 20, 2019, RTC Board meeting.
- April 17, 2009** Directed the Director of Administrative Services to begin a formal, regional recruitment, and each commissioner was to appoint one person to a candidate review sub-committee. Additionally, the Director of Administrative Services was to screen out the least qualified candidates and the review sub-committee would then screen out the remaining qualified candidates for final recommendation to the Board. An advertisement was to run for no more than two weeks.
- January 16, 2009** Appointed Derek Morse as the Interim Executive Director.
- December 19, 2008** Direction was given to the Director of Administrative Services to advertise a request for letters of interest (for Executive Director) only. A regional search was also preferred to a national search and an outside agency was not to be used. No relocation or travel costs for interviewing was to be offered.

Attachment

## **EMPLOYMENT AGREEMENT**

**THIS AGREEMENT** made and entered into this 20<sup>th</sup> day of March 2020, by and between the Regional Transportation Commission of Washoe County, State of Nevada, (hereinafter the "RTC") and William A. Thomas (hereinafter "Employee").

### **WITNESSETH:**

**WHEREAS**, the RTC by and through its Board of Commissioners (the "Board") desires to employ Employee as Executive Director of RTC; and

**WHEREAS**, it is Employee's desire to accept the position as Executive Director of the RTC upon the establishment of adequate compensation and terms of that employment; and

**WHEREAS**, the parties by this Agreement intend to set out the rights and obligations of each party to the other from the employment relationship.

**NOW, THEREFORE**, in consideration of the mutual covenants contained herein and other good and valuable consideration, there parties do agree as follows:

### **SECTION ONE – DUTIES**

- A. The RTC agrees to employ Employee as Executive Director of the RTC for the purpose of carrying out the legally permissible and proper duties of the position as established by statute, rules, policies and the job description, attached hereto as Exhibit "A" and incorporated herein by reference. The parties acknowledge that the identification of the references is to establish an overview and not as a limitation on the Executive Director's duties and obligations as may be prescribed by the RTC Board.
- B. Employee will be responsible and have full authority for the management of the affairs of the RTC and the supervision and management of its employees subject to the rules and policies of the RTC, as may be amended from time to time, at the direction of the RTC Board.
- C. Employee shall devote all Employee's services, full energies, best efforts, interests, abilities and productive time (excluding vacation and personal time) to the performance of his duties under this Agreement, to further the RTC's interests and to perform diligently and in good faith such duties as are or may be, from time to time, required by the RTC in connection with his employment hereunder.
- D. Employee shall not, without the RTC Board's prior written consent, directly or indirectly, render to any other person or organization services of any kind for compensation or engage in any other business activity that would interfere or detract from the performance of Employee's duties under this Agreement.

## **SECTION TWO – TERM**

- A. Employee's employment as Executive Director of the RTC, pursuant to the terms hereinafter stated shall commence on April 13, 2020 and shall continue under the terms and conditions hereinafter provided herein for a period of three (3) years. The parties may review or renegotiate this Agreement upon giving six (6) month notice, prior to expiration of the term, in writing to the other party of their intent to renegotiate. If no such notice is made in writing within the prescribed time period, then the Agreement will automatically renew for one (1) year.

That notwithstanding paragraph A, above, RTC and Employee agree and acknowledge that it is the intent of the parties that Employee's employment is an "at will." **SECTION THREE – SALARY/BENEFITS**

- A. RTC agrees to pay Employee an annual salary in the sum of Two Hundred Twenty Thousand Dollars (\$220,000.00) for employee's faithful and diligent performance of the duties and obligation of Executive Director. Salary shall be paid in the same manner and intervals as other RTC employees.
- B. Employee's performance shall be reviewed at least once annually at or near the end of the RTC's fiscal year. Said performance shall be evaluated against the duties and obligations of the position, to include goals and objectives which, to the extent possible, have been reduced to writing and agreed upon between the parties. A satisfactory or better performance shall make Employee eligible for an annual salary increase. The Board may also award a performance bonus of 0-5.0 percent of his current base salary. Said bonus shall be determined on or about July 1<sup>st</sup> of each year and shall be based upon employee's past year's performance of his goals and objectives. The RTC Board shall have the sole right to determine performance but said right shall be subject to a standard of reasonableness. Bonuses given shall not be considered part of Employee's base salary. The RTC shall pay any increase in the Employee's required PERS contributions regardless of whether Employee receives any salary increase or performance bonus.
- C. Except as otherwise modified by this Agreement, Employee shall be entitled to all the same benefits afforded to other RTC management employees. Benefits include, but are not limited to, health, dental and vision care insurances; life insurance; long term disability; sick leave; vacation, holidays; retirement benefits; and IRC Section 125 program pay. Employee's benefits are subject to increase/decrease with changes to existing RTC policy.

## **SECTION FOUR – VACATION**

During the first year, Employee shall accrue twenty-four (24) days of vacation. Thereafter, Employee's vacation time shall be increased and accrued in accordance with RTC policy.

#### **SECTION FIVE – CAR ALLOWANCE**

The RTC will pay to employee the sum of Five Hundred Dollars (\$500.00) per month as a basic transportation/car allowance. Mileage reimbursement, based upon RTC policy, will be provided for any trips outside of the metropolitan/urbanized area. Employee shall obtain and provide payment for liability insurance in an amount not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) per person and Five Hundred Thousand Dollars (\$500,000.00) per incident and shall be responsible for the purchase, operation, maintenance, repair and regular replacement of said automobile.

#### **SECTION SIX-MEDICAL INSURANCE**

The RTC will provide to Employee health, dental and vision insurance at no expense to Employee except for such limitations/deductibles as apply to the policy. The RTC shall reimburse Employee for COBRA payments between the date of hire and when Employee becomes eligible for coverage under the RTC group insurance plan.

#### **SECTION SEVEN – LIFE INSURANCE**

The RTC agrees to pay for term life insurance on Employee's life in an amount of Five Hundred Thousand Dollars (\$500,000.00). This amount shall be in lieu of the life insurance offered to all director level or higher employees of the RTC.

#### **SECTION EIGHT – DEFERRED COMPENSATION**

The RTC agrees to contribute annually on Employee's behalf, Seven percent (7%) of annual salary to the deferred compensation plan approved by the RTC. Said payments shall be made on or before December 31 of each year that Employee serves as Executive Director. This amount shall be in lieu of the one percent (1%) match offered to other RTC employees.

#### **SECTION NINE – MOBILE PHONE**

The RTC will provide Employee a mobile telephone to used solely for the official business of the RTC. The parties recognize that information in or on this phone may be subject to the Nevada Public Records Law.

#### **SECTION TEN – GENERAL EXPENSES**

The RTC will provide reimbursement for reasonable business expenses and for participation in professional associations in accordance with RTC policy.

### **SECTION ELEVEN – REDUCTION OF SALARY/BENEFITS**

- A. Except as provided in Subparagraphs B and C of this Section, RTC shall not reduce salary or other benefits granted to Employee by terms of this Agreement.
- B. Employee's benefits shall be subject to policy changes which increase or decrease benefits of management employees.
- C. In the event of substantial loss/decrease of funding which necessitates or results in the reduction of the salary and benefits of other managers, salary and benefits of Employee may be reduced by like percentage. Further, in the event of the complete loss of funding and/or the repeal of any ordinance or statutory provisions relating to the creation, duties and obligations of the RTC, this Agreement would be deemed to be revoked and no compensation payable under this Agreement would be due other than earned salary and benefits accrued but not yet paid.

### **SECTION TWELVE– INDEMNIFICATION**

- A. Except as otherwise provided in Subparagraph B of this Section, RTC shall defend, hold harmless and indemnify employee against any claim, lawsuit or other legal action, whether groundless or otherwise, arising out of the alleged negligent acts or omission of Employee where said acts or omission were made in good faith by employee and in furtherance of employee's duties as Executive director of the RTC. RTC's obligation includes, but is not limited to, the payment of any judgement, settlement and any cost and/or attorney's fees incurred.
- B. RTC shall not be obligated pursuant to the provisions of this Section for any liability arising from Employee's willful and/or intentional wrongful acts or for any acts of any kind which occur in a private capacity or which are unrelated to the performance of his duties and obligations as Executive Director.

### **SECTION THIRTEEN- CONDITIONS OF EMPLOYMENT**

- A. The RTC, in consultation with Employee, may fix any other terms and conditions of employment as it may determine from time to time relating to the performance of Employee, provided said terms and conditions are reasonably consistent and not in conflict with the provisions and intent of this Agreement. In addition, Employee agrees to conform with such personnel rules, management policies and other procedures as may be adopted and/or amended by the RTC from time to time.

- B. Employee shall maintain the highest ethical standard. The parties agree that Employee shall perform the Services for RTC and shall conduct himself at all times in strict accordance with the ethical and professional standards of the Nevada State ethics Commission and the provisions of the Nevada ethics in Government Law.
- C. The parties agree that employee shall perform the Services for RTC and shall conduct himself at all times in strict accordance with all applicable laws of the United States and State of Nevada.

#### **SECTION FOURTEEN – TERMINATION AND SEVERANCE PAY**

##### **A. Termination Without Cause.**

1. **By RTC.** RTC may terminate this Agreement without cause, at any time, upon ten (10) days written notice to Employee and paying employee an amount equal to Employee's pro-rated Salary for a six (6) month period ("Severance Period"). Employee shall also be entitled to the Benefits outline in Section Three above during the Severance Period. Payments pursuant to this Section Fourteen (A)(1) shall be paid at the discretion of the RTC, either in a lump sum or in equal or near equal amounts on regular pay dates until the equivalent of six (6) months Salary is paid. RTC shall determine, in its sole discretion, whether Employee shall be required to perform the services of Executive Director during that six (6) month period. RTC and Employee shall mutually agree upon any communications to be made public or internally with RTC's staff regarding any termination pursuant to this Section.
2. **By Employee.** Employee may terminate this Agreement without cause, at any time, upon six (6) months written notice. RTC's Board may, in its sole discretion, determine that employee's notice period will be shorter than six (6) months, and Employee shall only be paid for the actual notice period determined by RTC. RTC and employee shall mutually agree upon any communications to be made public or internally to RTC's staff regarding any termination, pursuant to this Section.
3. Regardless of whether the termination is initiated by the RTC or Employee the Severance Period shall not be more than six (6) months nor less than three (3) months.

##### **B. Termination for Cause.**

1. **Generally.** In addition to any basis set forth hereinabove, RTC may immediately terminate this Agreement upon the occurrence of any of the following events:
  - a. By majority vote of the Board for any act of dishonesty, fraud, or gross negligence in the performance of services herein, after giving

- Employee written notice of such act(s) and providing Employee an opportunity to respond in writing or in person to RTC's Board.
- b. Employee commits any unethical conduct in violation of Section One; or
  - c. Expiration of the Employment Term set forth in Section Two or any renewal thereof; or
  - d. RTC finds that employee has committed any violation of any policy or procedure of RTC or commits any breach of statutory or common law duty.
  - e. Failure of Employee, after receiving thirty (30) days advance written notice from RTC, to cure any breach of this Agreement by Employee.
2. In the event Employee is terminated pursuant to this Subparagraph. Employee shall receive no further compensation beyond the termination date other than benefits accrued or required by law.
- C. **Termination upon Death.** This Agreement shall automatically terminate upon the death of Employee, and RTC shall not be obligated to pay the estate, family, heirs or any other person claiming under Employee any compensation or disability income for his services to RTC which would have been due to Employee after death, other than the compensation or disability income which accrued up to the date of death, if any.
- D. **Termination upon Disability.**
1. **Definition.** "Disability" shall have the same meaning as the definition of "Disability" pursuant to any policy of disability insurance carried by RTC for the benefit of Employee in force at the time of such Disability, or, if no such disability policy of insurance is then in force, "Disability" shall mean the inability of Employee to provide ninety percent (90%) of the average level of time and charges for services previously provided during a continuous three (3) month period ("Determination Period") by reason of illness, accident or other mental or physical infirmity reasonable expected to be of indefinite duration, at the end of which Determination Period Employee shall be deemed to be disabled. RTC and Employee shall agree on the date when the period of Disability begins. If RTC and employee cannot agree, the RTC and Employee shall each designate a physician of choice and two designated physicians shall designate a third physician. The three physicians shall then determine whether Disability exists within the meaning of this Agreement and when that Disability commenced. All costs and expense connected with the determination of Disability under this Agreement shall be borne equally by RTC and Employee.
  2. **Termination on Disability.** In the event of employee's disability, RTC shall continue to pay Employee his/her Salary computed at the rate in effect



prior to the commencement of the Determination Period (as defined herein) during the Determination Period. If RTC finds Employee to be Disabled within the meaning of this Agreement, then subject to the provisions of Subparagraph D(1) above, employee's employment and the right to compensation may at the discretion of the Board, terminate the employment of the Employee upon the expiration of the Determination Period; however, any commercially funded disability insurance benefit shall continue to the extent provided under such insurance contract notwithstanding such termination. If RTC finds employee not to be Disabled within the meaning of this Agreement, then the employment of Employee shall continue without regard to the Disability.

#### **SECTION FIFTEEN – SUSPENSION**

The RTC may suspend Employee with full pay and benefits at any time during the term of this Agreement. At the time of the suspension, Employee shall be given written notice setting forth any charges and a hearing concerning the matter shall be conducted with seven (7) working days.

#### **SECTION SIXTEEN – PERSONNEL RULES AND MANAGEMENT POLICIES**

The RTC had drafted and instituted Personnel Rules and Management Policies. The RTC and employee hereby agree that should there be a contradiction or ambiguity between this Agreement and the Personnel Rules and Management Policies, the terms of this Agreement shall prevail. Employee acknowledges receipt of the Personnel Rules and Management Policies and agrees to comply with their terms.

#### **SECTION SEVENTEEN – MISCELLANEOUS**

- A. **Assignment.** Except as otherwise provided herein, Employee may not and shall not assign any rights or delegate any duties under this Agreement.
- B. **Notices.** All Notices, demands, requests, and other communications required or permitted to be served on or given to either party by the other shall be in writing and shall be delivered personally or by United States mail, first class postage prepaid, certified or registered mail, return receipt requested. Notices shall be addressed as follows:

To RTC:                      Chairperson, Regional Transportation Commission  
   of Washoe County  
   P.O. Box 30002  
   Reno, Nevada 89502  
   (775) 348-0400

To Employee: William A. Thomas  
1875 Carlentini Court  
Reno, Nevada 89519  
(775) 722-4928

The person to be served and the address shown above may be changed at any time by notice to the other party. Service shall be completed upon personal delivery or three (3) days following the time the notice is deposited by registered or certified mail.

- C. **Governing Law; Jurisdiction.** The provisions of this Agreement shall be governed and construed in accordance with the laws of State of Nevada and the parties hereto submit to the exclusive jurisdiction of the Justice and/or District Courts of the State of Nevada.
- D. **Severability.** To the extent that any term or provision of this Agreement or the application thereof to any circumstance shall be deemed to be invalid or unenforceable, such term or provision shall be ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining terms and provision of this Agreement. The parties agree that a suitable and equitable term or provision shall be substituted thereof to carry out, insofar as may be valid and enforceable, the intent and purpose of the invalid or unenforceable term or provision.
- E. **Entire Agreement.** There are no verbal agreements, representations, or understandings affecting this Agreement, and all negotiations, representations, and understandings are set forth herein with the understanding that this Agreement constitutes the entire understanding by and between the parties.
- F. **Amendments.** No alteration, amendment, or modification of this Agreement is effective unless it is in writing and signed by both parties.
- G. **Waiver.** The failure of the RTC or Employee to insist upon the performance of any of the terms or conditions of this Agreement, or the waiver of any breach of any of the terms or conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions. The same shall continue and remain in full force and effect as if no such forbearance or waive had occurred.
- H. **Captions.** The captions contained in this Agreement are for convenience only and are not intended to limit or define the scope or effect of any provision of this Agreement.
- I. **Counterparts.** This Agreement may be executed in any number of counterparts and each such counterpart shall be deemed an original, but all of which, when taken together, shall constitute an Agreement.

- J. **Presumption.** This Agreement or any section thereof shall not be construed against any party because said Agreement, or any section thereof was drafted by said party.
- K. **Separate Counsel.** Each party has received or has had the opportunity to receive the independent advice of its attorney prior to the execution of this Agreement. It is understood and agreed that the undersigned have not been influenced to any extent whatsoever in making this Agreement by any representative, agent or employee of an adverse party, or by any attorney, person or persons representing or employed by the undersigned, and that this Agreement is entered into freely, voluntarily and knowingly.

**IN WITNESS WHEREOF**, the parties have executed this Agreement effective as March 20, 2020.

APPROVED AS TO LEGALITY AND FORM:

By: \_\_\_\_\_  
Dale E. Ferguson, Esq. RTC General Counsel

**REGIONAL TRANSPORTATION COMMISSION OF WASHOE COUNTY**

By: \_\_\_\_\_  
Bob Lucey, Chairman **EMPLOYEE**

By: \_\_\_\_\_ William A. Thomas