

TEHAMA COUNTY
and
JAMES SIMON
EMPLOYMENT AGREEMENT
for the position of
Director of Public Works

THIS AGREEMENT, is made and entered into on September 22, 2020 and effective commencing October 12, 2020 by and between the Tehama County Board of Supervisors, hereinafter called "COUNTY" and JAMES SIMON, hereinafter called "SIMON" both of whom understand as follows:

WITNESSETH

WHEREAS, COUNTY desires to employ the services of JAMES SIMON as Director of Public Works from the effective date hereof until October 11, 2024; and

WHEREAS, it is the desire of the COUNTY to provide certain benefits, to establish certain conditions of employment and to set working conditions for SIMON; and

WHEREAS, SIMON desires employment in the position described above; and

WHEREAS, except as otherwise provided herein, all provisions of the personnel rules and regulations of the COUNTY relating to leave, expense reimbursement, retirement and pension system contributions, and other benefits and working conditions as they now exist or hereafter may be amended, also shall apply to SIMON as they would to any employees of the County; and

WHEREAS, the COUNTY Board shall fix any such terms and conditions of employment, as it may determine from time to time, relating to the performance of SIMON provided such terms and conditions are not inconsistent with or in conflict with the provisions of this agreement or any other law.

NOW THEREFORE, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1: Duties

COUNTY hereby agrees to employ SIMON as the Director of Public Works to perform the functions and duties as specified in the Director of Public Works classification specification heretofore or hereinafter approved by the Tehama County Board of Supervisors and to perform other legally permissible and proper duties and functions of the Public Works from time to time as may be assigned.

Except as otherwise provided by the COUNTY, a workweek is defined to consist of seven (7) consecutive calendar days, Sunday through Saturday, consisting of forty (40) hours. SIMON shall report for work at his regular established headquarters and shall return hereto at the conclusion of the day's work, except for off-site COUNTY business, or as otherwise established.

JAMES SIMON AGREEMENT
October 12, 2020-October 11, 2024 | Page 1

Section 2: Term

SIMON agrees to remain in the exclusive employ of COUNTY until October 11, 2024 and further agrees to accept no other employment that may conflict with SIMON's performance of duties until this termination date, unless said termination date is affected as hereinafter provided.

Section 3: Salary

For purposes of this agreement, SIMON shall be considered an overtime-exempt County employee. The salary and benefits provided under this agreement shall constitute the total compensation for all services provided by SIMON under this agreement.

COUNTY agrees to pay SIMON for his services rendered pursuant hereto a salary, payable in semi-monthly installments at the same time as other management employees of the COUNTY are paid and subject to satisfactory job performance equivalent to the following salary amounts:

October 12, 2020 through October 11, 2021	\$11,237.75 Monthly
October 12, 2021 through October 11, 2022	\$11,799.67 Monthly
October 12, 2022 through October 11, 2023	\$12,390.00 Monthly
October 12, 2023 through October 11, 2024	\$12,390.00 Monthly

Within each monthly amount, compensation shall be allocated, for accounting purposes, as \$100 per month for the duties performed as Road Commissioner and the balance shall be for duties performed as Director of Public Works.

In the event that, during the term of this contract, the COUNTY agrees to a percentage increase in salary for all classifications represented by the Tehama County Management Employees Association, herein after called "TCMEA", SIMON's salary will be increased by an equal percentage. Any such increase in SIMON's salary shall be effective for all calendar months commencing after the effective date of the increase in Management employee salary.

Notwithstanding any other provisions of this contract, COUNTY'S Board of Supervisors reserves the right, in its sole discretion, to increase the compensation paid by COUNTY to SIMON during the term of this contract. The compensation stated in this contract shall not be deemed to be a fixed amount for the entire term of this contract, and may be increased, in the discretion of the Board of Supervisors, consistent with the California Constitution, article XI, Section 10, subdivision (a).

In the event that, during the term of this contract, the TCMEA agrees to adjustments in employment compensation, such as reductions in salary, increased contributions to CalPERS, or changes to other benefits, SIMON's employment compensation will be adjusted by an equal amount. Any such adjustments shall be effective for all calendar months commencing after the effective date of the adjustment as stated in the Memorandum of Understanding between the COUNTY and the TCMEA currently in effect (hereinafter the "MOU").

Notwithstanding the above paragraph, the COUNTY shall not at any time during the term of this agreement reduce the salary, compensation or other financial benefits of SIMON, except with the concurrence of SIMON and then only to the degree of such a reduction across-the-board for all

employees of the Department in which SIMON is employed (including a reduction resulting from employee furloughs).

Except as provided in the cell phone allowance, partial months will be prorated based on the number of days this contract is in force during the month calculated as a percentage of the total number of calendar days in the month.

Section 4: Department Head Stipend

A department head stipend shall be added to the salary of SIMON in the sum of \$100.00 per month.

Section 5: Cellular Telephone Allowance

As SIMON's duties require the use of a cellular telephone in the course of County business, COUNTY agrees to provide SIMON a cellular telephone allowance of \$60 per month to cover all costs of related equipment and service. This cellular telephone allowance is not considered part of salary and is therefore not included in California Public Employees' Retirement System calculations for SIMON and shall not be prorated.

Section 6: Automobile

Should it be required that SIMON use his personal vehicle in the performance of his official County duties, it is agreed that SIMON will be reimbursed at the approved County reimbursement rate. This mileage reimbursement is not considered part of salary and is therefore not included in California Public Employees' Retirement System calculations for SIMON.

Section 7: Personal Time Off (PTO)

In lieu of accruing vacation or sick leave, SIMON shall accrue and have credited to his personal account, Personal Time Off (PTO) leave. PTO shall accrue at a rate of 20 (twenty) hours per month of full-time service (prorated for any part-time work or unpaid leaves). Accrual of PTO shall continue until such time SIMON has accrued a total balance of five hundred (500) hours, at which point the accrual of additional time beyond 500 hours shall cease.

SIMON shall have one (1) personal holiday (8 hours) added to his PTO balance each July 1st, subject to the 500-hour cap.

Upon the effective date of this contract, SIMON will be granted eighty (80) hours of PTO available for immediate use.

After five (5) years of continuous service with Tehama County (October 12, 2025), the Board of Supervisors may, in its discretion and at SIMON's request, compensate SIMON for up to sixty (60) hours of accumulated PTO leave, once per calendar year, in lieu of PTO time off with pay, consistent with the method utilized by COUNTY for members of the Management Unit.

Section 8: Management Leave

SIMON shall have five (5) paid management leave days (40 hours) added to his Management Time Off (MTO) bank each July 1st. MTO and the MTO bank are separate and distinct from PTO and PTO bank. MTO does not constitute additional wages, and shall not be considered vested for any purpose. All MTO shall be used within the fiscal year in which it was granted, or SIMON will lose

that MTO.

In the event that, during the term of this Agreement, COUNTY and the TCMEA agree to increase or decrease the number of paid MTO hours for employees represented by the Association, or that such adjustment is otherwise lawfully imposed by COUNTY, then the number of MTO hours credited to SIMON hereunder shall be increased or decreased by an equal amount, commencing the following July 1st.

Section 9: Holidays

SIMON shall be entitled to have the following holidays off with pay: January 1, the third Monday in January (Dr. Martin Luther King, Jr.'s birthday), February 12 (Lincoln Day), the third Monday in February (President's Day), the last Monday in May (Memorial Day), July 4 (Independence Day), the first Monday in September (Labor Day), the second Monday in October (Columbus Day), November 11 (Veterans Day), Thanksgiving, the Friday after Thanksgiving, and December 25 (Christmas). SIMON shall also be entitled to the last workday before Christmas (Christmas Eve) or the last workday before New Year's (New Year's Eve), as determined by the COUNTY.

If any of the foregoing holidays falls on a Sunday, the Monday following shall be observed as the holiday. If any of the foregoing holidays falls on a Saturday, the preceding Friday shall be observed as the holiday. If an employee is in a non-pay status on both workdays immediately adjacent to the holiday, the employee shall not receive pay for the holiday.

Section 10: Health and Life Insurance

COUNTY agrees to provide comprehensive medical, vision, life and dental insurance for SIMON and his dependents. The method utilized to calculate the portion of the premium, if any, paid by COUNTY shall be consistent with the method utilized by COUNTY to calculate the contribution for employees covered by the MOU. SIMON may elect to participate in the County's Premium Only Section 125 benefit program, which allows pre-tax benefits for employees' contributions to the group health insurance premium.

The COUNTY will make an Employee Assistance Program (EAP) available. The EAP will provide personal counseling on legal services and personal and work related issues for SIMON and/or members of his immediate family.

The COUNTY will allow SIMON to establish an employee-funded Flexible Spending Account, which currently provides employees with the options of Dependent Care Assistance and Unreimbursed Medical Expenses. The plan year maximum for Flexible Spending Accounts will be determined by the contribution limits set by the Internal Revenue Service.

Section 11: Retirement

The parties acknowledge and agree that SIMON is a local miscellaneous member of the California Public Employees' Retirement System (CalPERS), and a "new employee" as defined in the California Public Employees' Pension Reform Act of 2013.

SIMON shall participate in the CalPERS 2%@62 defined benefit program, as set forth in the California Public Employees' Pension Reform Act of 2013. Retirement is integrated with Social Security.

In accordance with Government Code section 7522.30, SIMON shall make employee contributions to CalPERS in an amount equal to 50 percent (50%) of the normal cost rate for his defined benefit plan, as determined annually by CalPERS. In addition, the parties agree, pursuant to Government Code section 20516, subdivision (f), that in the event the required member contribution for SIMON hereunder is less than the member contribution for "New" employees represented by the MOU (established pursuant to Government Code section 20516.5 or otherwise), SIMON shall pay a portion of the CalPERS employer contribution equal to the difference between SIMON's required employee contribution hereunder and the member contribution established for "New" employees represented by the MOU. It is the intent of this Section that SIMON pay the full member contribution required under Government Code section 7522.30, or a combined member contribution and employer contribution cost-share equal to the member contribution established for "New" employees represented by the TCMEA, whichever is greater. The COUNTY will not pay any portion of this contribution on behalf of SIMON.

The CalPERS retirement plan includes "Pre-Retirement Optional Settlement 2 Death Benefit" as described in Government Code 21548.

Section 12: Deferred Compensation

The COUNTY will contribute a matching deposit of up to \$100 (one hundred dollars) per month to the Section 457 Deferred Compensation plan on behalf of SIMON on the same terms as the MOU. In the event that, during the term of this Agreement, COUNTY and the TCMEA agree to increase or decrease the matching deposit for employees represented by the TCMEA, or that such adjustment is otherwise lawfully imposed by COUNTY, then the matching deposit provided to SIMON hereunder shall be increased or decreased by an equal amount, commencing the following month.

Section 13: Professional and Official Travel

COUNTY hereby agrees to pay for travel and subsistence expenses of SIMON in accordance with adopted COUNTY travel policy for professional and official travel, meetings and occasions adequate to continue the professional development of SIMON and to adequately pursue necessary official functions for COUNTY, including conferences specific to the Director of Public Works functions and such other related national, regional, state and local governmental groups and committees thereof which SIMON serves as a member, subject to the COUNTY budget as approved by the COUNTY Board of Supervisors.

COUNTY also agrees to pay for travel and subsistence expenses of SIMON, in accordance with adopted county travel policy, for short courses, institutes and seminars that are necessary for his professional development and for the good of the COUNTY, subject to the COUNTY budget as approved by the COUNTY Board of Supervisors.

If SIMON is assigned to temporary work at such distance from his regular headquarters that it is impractical to return thereto each day, or to his regular place of abode, SIMON will be allowed

personal expenses or per diem as established by the Board of Supervisors.

Section 14: Resignation

Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of SIMON to resign from his position with COUNTY. If SIMON voluntarily resigns his position with COUNTY before expiration of the aforesaid term of his employment, then SIMON shall give COUNTY two months' notice in advance, unless the parties agree otherwise.

Section 15: Termination and Severance Pay

The Director of Public Works serves at the will of the COUNTY. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of the COUNTY to terminate the services of SIMON at any time. If SIMON is terminated by the COUNTY before expiration of the aforesaid term of employment, and if SIMON is willing and able to perform his duties under this agreement, and if termination is for other than "just cause," then the COUNTY will pay SIMON a lump-sum cash payment. Said lump-sum cash payment shall be equal to the lesser of three month's aggregate salary and benefits or the aggregate salary and benefits for the remaining term of this agreement.

If termination is for "just cause" or disability that cannot reasonably be accommodated, then no severance payment shall be made.

SIMON shall also be compensated for all unused earned PTO leave in the same manner as is provided for unused earned vacation leave in the MOU. MTO is not considered vested, and SIMON shall receive no compensation for unused MTO.

Section 16: Industrial Injury or Illness

Should SIMON be absent from work as a result of a work-related disability, and is receiving temporary disability indemnity payments provided for by the Labor Code of the State of California, SIMON may elect to utilize State Disability Insurance, MTO and/or PTO to supplement his temporary disability indemnity payments, up to a maximum of full salary. During the time SIMON is receiving temporary disability indemnity payments, which are supplemented by State Disability Insurance and accrued leave, he shall continue to accumulate additional MTO/PTO, and is entitled to continuation of the employee's insurance benefit program on the normal premium-sharing formula. Following exhaustion of all accumulated MTO/PTO, SIMON's insurance benefits shall be continued on the normal premium-sharing formula for a maximum of six (6) full calendar months, following the date of exhaustion of other forms of County paid time off.

If SIMON is absent by reason of industrial disability, SIMON may be returned to work by the COUNTY and given temporary light duties within the employee's ability to perform, with the consent of the his physician. The duration of any such period of temporary work shall be determined by COUNTY. SIMON shall be compensated at the then-current rate of pay while engaged in such temporary duties. The COUNTY may require SIMON when requesting to return to work after an absence caused by disability or illness, to submit to a medical examination by a physician or physicians approved by COUNTY for the purpose of determining that such employee is physically and mentally fit and able to perform the duties of the his position without hazard to self or to his fellow workers, or to his own permanent health.

Nothing herein shall be construed nor applied in a way which is inconsistent with any employee right under the State of California Workers' Compensation Act or related statutes, or be construed to waive any rights contained therein.

Should SIMON return to work from a work place industrial injury or illness, SIMON shall receive up to four (4) hours of paid release time per visit or appointment with a physician or other appropriate healthcare provider providing ongoing medical treatment prescribed by the workers' compensation physician that is in relation to the industrial illness or injury itself. The release time is permitted until SIMON has been deemed permanent and stationary by the workers' compensation physician or workers' compensation third party administrator.

Section 17: Incapacity and Unpaid Leave

Subject to all applicable provisions of the Family Medical Leave Act (FMLA), California Family Right Act (CFRA), and any other statute or regulation pertaining to leaves or disability, if SIMON is permanently disabled and cannot be reasonably accommodated, or is otherwise unable to perform his duties because of sickness, accident, injury, mental incapacity or health, COUNTY shall have the option to terminate this agreement.

In the event that a non-statutory leave is approved by the Board of Supervisors due to SIMON's incapacity, or for any other reason, SIMON shall not receive any salary, stipend or other compensation hereunder once SIMON's accrued leave balances have been exhausted. Time spent on an unpaid leave of absence shall not be treated as COUNTY service for any purpose under this Agreement and SIMON shall not accrue PTO benefits while on unpaid leave.

If the COUNTY believes SIMON is abusing leave, they may require satisfactory evidence of sickness or disability before payment of leave will be made.

Should SIMON fail to return to work within three workdays of the expiration of approved leave, he shall be deemed to have tendered an automatic resignation. However, when there are extenuating or mitigating circumstances which delay the employee's return, the COUNTY will allow SIMON an opportunity to provide the circumstances to make a final determination of employment by way of appealing a finding that SIMON had automatically resigned.

Health insurance will be continued on the normal premium share-of-cost basis for the duration of any statutory leaves of absence. Prior to five (5) years of continuous regular COUNTY service, if SIMON is on a leave of absence beyond any accrued leaves, he may maintain the COUNTY's group health insurance coverage for one (1) full calendar month on the normal premium share-of-cost basis. After five (5) or more years of continuous regular COUNTY service, if SIMON is on a leave of absence beyond any accrued leaves, he may maintain the COUNTY's group health insurance coverage for a total of three (3) months on the normal premium cost-sharing basis. SIMON may receive the insurance continuation payment by the employer only once in a twelve (12) month period. The twelve (12) month period begins the date SIMON returns to work from the leave of absence in which he completed the use of the one (1) month or three (3) month insurance continuation payment benefit referred to in this section.

Section 18: Performance Evaluation

The Chief Administrator shall review and evaluate the performance of SIMON at least once during each year. Said review and evaluation shall be conducted in a manner consistent with COUNTY Department Head evaluation policies. Said criteria may be added to or deleted from as the COUNTY may from time to time determine, in consultation with SIMON. Further, the COUNTY Chief Administrator shall provide SIMON with a summary written statement of the findings and provide an adequate opportunity for SIMON to discuss his evaluation with the Chief Administrator, and as appropriate, the Board of Supervisors.

At the time of evaluation, the COUNTY and SIMON shall define such goals and performance objectives that they determine necessary for the proper operation of the Public Works Department and shall further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. The goals and objectives shall generally be attainable within the time and budgetary resources provided.

In effecting the provisions of this Section, the COUNTY and SIMON mutually agree to abide by the provisions of applicable law.

Section 19: Safety

The COUNTY desires to maintain a safe place of employment for COUNTY employees and to that end, the COUNTY shall make all reasonable provisions necessary for the safety of employees in the performance of their work.

Section 20: Indemnification

To the extent that SIMON is acting in his official capacity as the Director of Public Works, SIMON shall be considered as a COUNTY employee for purposes of indemnity and the COUNTY shall defend, save harmless, and indemnify SIMON against any tort, professional liability claim or demand or other legal action arising out of an alleged act or omission occurring within the course and scope of SIMON's duties as Director of Public Works.

Section 21: Bonding

COUNTY shall bear the full cost of any fidelity or other bonds required of SIMON under any law or ordinance.

Section 22: Notices

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

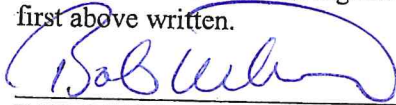
- A. COUNTY: Chairman of the Board of Supervisors, 727 Oak Street, Red Bluff CA, 96080
- B. SIMON: JAMES SIMON at the permanent address on record with the COUNTY Auditor

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

Section 23: General Provisions

- A. The text herein shall constitute the entire agreement between the parties.
- B. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of SIMON.
- C. This agreement shall become effective commencing October 12, 2020.
- D. If any provision, or portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement or portion thereof shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF, the Tehama County Board of Supervisors has caused this agreement to be signed and executed in its behalf by its Chairperson, and duly attested by the Clerk of Tehama County, and SIMON has signed and executed this agreement, both in duplicate, the day and year first above written.



BOB WILLIAMS

Chairman, Board of Supervisors



JAMES SIMON

Employee

Approved as to form:

RICHARD STOUT

County Counsel

E-Contract Review
Approval as to Form

Department Name: Administration

Vendor Name: James Simon.

Contract Description: Employment contract for Director of Public Works.

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to be 'R. Stout', written over a horizontal line.

Office of the Tehama County Counsel
Richard Stout, County Counsel

Date: 09/14/2020

MINUTE ORDER
BOARD OF SUPERVISORS
COUNTY OF TEHAMA, STATE OF CALIFORNIA

R E G U L A R A G E N D A

28. PUBLIC WORKS / ADMINISTRATION

a) AGREEMENT - Approval and authorization for the Chairman to sign an employment Agreement with James Simon for the position of Tehama County Road Commissioner and Director of Public Works, effective 10/12/20 through 10/11/24.

(Miscellaneous Agreement #2020-270)

Chief Administrator Williams Goodwin gave a brief overview of Mr. Simon's qualifications. He stated there was a change to Mr. Simon's contract changing the 40 hours of PTO to 80 hours PTO.

Greg Latourell said the Board missed out on a wonderful candidate in Mr. Panos due to his request of being hired at E step and not being supported by Administration. He further commented on the CAO, Building and Planning positions.

Supervisor Chamblin commented on the amount of money it has taken to fill these positions.

Supervisor Carlson said she would be voting no due to the step not the person.

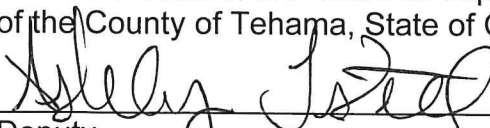
RESULT: **APPROVED [4 TO 1]**
MOVER: Steve Chamblin, Supervisor - District 1
SECONDER: Burt Bundy, Supervisor - District 5
AYES: Chamblin, Garton, Williams, Bundy
NAYS: Carlson

STATE OF CALIFORNIA)
) ss
COUNTY OF TEHAMA)

I, JENNIFER VISE, County Clerk and ex-officio Clerk of the Board of Supervisors of the County of Tehama, State of California, hereby certify the above and foregoing to be a full, true and correct copy of an order adopted by said Board of Supervisors on the 22th day of September 2020.

DATED: September 25, 2020

JENNIFER A. VISE, County Clerk and
Ex-officio Clerk of the Board of Supervisors
of the County of Tehama, State of California

BY: 
Deputy