

## EMPLOYMENT AGREEMENT

### Table of Content

### RECITALS

### TERMS OF EMPLOYMENT

1. Agreement to employ and be employed.
2. Description of Employee's duties.
3. Manner of performance of Employee's duties.
4. Duration of employment.
5. At-will employment
6. Compensation.
7. Tax withholding.
8. Benefits.
9. Expenses.
10. Working hours.
11. Vacation.
12. Holidays.
13. Family & sick leave.
14. Employee's loyalty to Employer's interests.
15. Nondisclosure of information concerning business.
16. Non-interference.
17. Option to terminate on permanent disability of Employee.
18. Discontinuance of business as termination of employment.
19. Employee's commitments.

### MISCELLANIOUS

20. Return of materials.
21. Proof of right to work.
22. Contract terms to be exclusive.
23. Waiver or modification ineffective unless in writing.
24. Notice.
25. Contract governed by law.
26. Headings.
27. Arbitration of disputes

### ACKNOWLEDGEMENT

### SIGNATURE

**EMPLOYMENT AGREEMENT***DRAFT*

This agreement (the "Agreement") made and entered into this first day of July, 2003,

BETWEEN

AND

Company Name: Feather River Rail Society	Employee's Name: John S. Walker
Officer's Name: Rod McClure - President	
Address: P.O. Box 608 Portola, California	Address: 1351 Dustin Drive #4 Yuba City, CA. 95993
Phone: 530-832-4131	Phone: 530-713-4935
Fax:	Fax: n/a
Email: ram794@alpine.net	Email: n/a
Web Address: www.wplives.org	Web Address: n/a
hereinafter referred to as the "Employer")	(hereinafter referred to as the "Employee")

(the Employer and the Employee hereinafter collectively referred to as the "Parties")

This agreement establishes an understanding between the parties and as such both parties agree to be bound by its Terms and Conditions. This agreement shall not become binding upon the parties until it has been signed by an authorized representative of the Parties and signed and accepted by authorized officers.

THE PARTIES RECITE THAT:

**WHEREAS** Employer is engaged in business as a not for profit Railroad Museum and maintains business premises at 700 Western Pacific Way, Portola, California 96122.

**WHEREAS** Employee is willing to be employed by Employer, and Employer is willing to employ Employee, on the terms and conditions hereinafter set forth.

**NOW THEREFORE** for the reasons set forth above, and in consideration of the mutual covenants and promises of the parties hereto, Employer and Employee covenant and agree as

Employer \_\_\_ Employee \_\_\_

follows:

TERMS OF EMPLOYMENT

1. **Agreement to employ and be employed.** Employer hereby employs Employee as Museum Manager at the above-mentioned premises, and Employee hereby accepts and agrees to such employment.
  
2. **Description of Employee's duties.** Subject to the supervision and pursuant to the orders, advice, and direction of Employer, Employee shall perform such duties as are customarily performed by one holding such position in other businesses or enterprises of the same or similar nature as that engaged in by Employer. Employee shall additionally render such other and unrelated services and duties as may be assigned to him from time to time by Employer. Employee will adhere to Museum Manager Job Description duties attached.
  
3. **Manner of performance of Employee's duties.** Employee shall at all times faithfully, industriously, and to the best of his ability, experience, and talent, perform all duties that may be required of and from him pursuant to the express and implicit terms hereof, to the reasonable satisfaction of Employer. Such duties shall be rendered at the abovementioned premises and at such other place or places as Employer shall in good faith require or as the interests, needs, business, and opportunities of Employer shall require or make advisable.
  
4. **Duration of employment.** The initial term of Employee's employment with the Employer shall continue, unless earlier terminated pursuant to Sections 17 and 18 hereof, through July 1, 2004; provided, however, that after expiration of the initial term, the employment period shall automatically be renewed each July 1 for successive one-year terms unless the Employer or Employee delivers written notice to the other party at least ninety (90) days preceding the expiration of the initial term or any one-year extension date of the intention not to extend the term of this agreement.

Employer \_\_\_ Employee \_\_\_

5. **Compensation.** Employer shall pay Employee and Employee agrees to accept from Employer, in full payment for Employee's services hereunder, compensation at the rate of thirty thousand dollars (\$30,000) per annum, payable bi-monthly.
6. **Tax withholding.** All payments of salary and other compensation to Employee pursuant to this agreement shall be made after deduction of any taxes required to be withheld with respect thereto under applicable federal, state and local laws.
7. **Benefits.** You will also receive Employer's standard employee benefits package
8. **Expenses.** The Employer shall pay or reimburse Employee for any and all necessary, customary, and usual expenses incurred by him while traveling for and on behalf of the Employer pursuant to Employer's directions, upon presentment of suitable vouchers, for all reasonable business and travel expenses that may be incurred or paid by Employee in connection with his employment hereunder. Employee shall comply with such restrictions and shall keep such records as the Employer may deem necessary to meet the requirements of the Internal Revenue Code of 1986, as amended from time to time, and regulations promulgated thereunder.
9. **Working hours.** The standard working week of Employer is 40 hours, based on 8 hours per day, Monday to Friday. It is understood, however, that hours may vary in order to comply with Employer's commitment to the highest standard of professional performance. Employee's salary represents payment for all those hours so worked. Specifically, the Employee will be present for work during the following calendar days and hours: February 15<sup>th</sup> thru April 1<sup>st</sup>, 11:00am to 4:00pm Daily, April 2<sup>nd</sup> thru but not including Memorial Day 10:00am to 5:00pm Daily, Memorial Day thru Labor Day, 9:00am to 6:00pm Daily, The day following Labor Day thru November 15<sup>th</sup>, 10:00am to 5:00pm Daily, November 16<sup>th</sup> thru December 15<sup>th</sup>, 11:00am to 4:00pm Daily, and December 16<sup>th</sup> thru February 14<sup>th</sup> on a as needed basis. Employee is allowed one (1) day off per week, with a two (2) consecutive day off period allowed once monthly providing that suitable replacement is available to staff the position and the Employee's supervisor has agreed. Employee will keep a detailed record of

all time spent working for the Society, available to the Employees supervisor upon demand.

10. **Vacation.** Employee shall be entitled to a minimum of 8 weeks of paid vacation, during each calendar year, to be taken at times agreeable to both the Employee and the Employer. Specifically, unless otherwise agreed to, these weeks shall be taken between December 16<sup>th</sup> and February 15<sup>th</sup>. Any vacation not used during a calendar year may not be used during any subsequent period. Vacation time shall be prorated for any partial calendar year of employment.
11. **Holidays.** Employee is entitled to take national holidays stipulated and in force in the national holidays law and other holidays as designated by the Employer without deduction from base salary. Employee may be required to work on a national or other holiday. Reasonable notice of this requirement will be given.
12. **Family & sick leave.** Employee shall have Family and sick leave as required by law when required and with approval of the Employees supervisor.
13. **Employee's loyalty to Employer's interests.** Employee shall devote all of his time, attention, knowledge, and skill solely and exclusively to the business and interests of Employer, and Employer shall be entitled to all benefits, emoluments, profits, or other issues arising from or incident to any and all work, services, and advice of Employee. Employee expressly agrees that during the term hereof he will not be interested, directly or indirectly, in any form, fashion, or manner, as partner, officer, director, stockholder, advisor, Employee, or in any other form or capacity, in any other business similar to Employer's business or any allied trade, except that nothing herein contained shall be deemed to prevent or limit the right of Employee to invest any of his surplus funds in the capital stock or other securities of any corporation whose stock or securities are publicly owned or are regularly traded on any public exchange, nor shall anything herein contained by deemed to prevent Employee from investing or limit Employee's right to invest.
14. **Nondisclosure of information concerning business.** Employee will not at any time, in any

fashion, form, or manner, either directly or indirectly divulge, disclose, or communicate to any person, firm, or corporation in any manner whatsoever any information of any kind, nature, or description concerning any matters affecting or relating to the business of Employer, including, without limitation, the names of any its customers, the prices it obtains or has obtained, or at which it sells or has sold its products, or any other information concerning the business of Employer, its manner of operation, or its plans, processes, or other data of any kind, nature, or description without regard to whether any or all of the foregoing matters would be deemed confidential, material, or important. The parties hereby stipulate that, as between them, the foregoing matters are important, material, and confidential, and gravely affect the effective and successful conduct of the business of Employer, and its good will, and that any breach of the terms of this section is a material breach of this agreement.

15. **Non-interference.** Employee agrees that for a period of five (5) years following the termination of Employee's employment hereunder, Employee shall not, directly or indirectly, request or cause any collaborative partners, universities, governmental agencies, contracting parties, suppliers or customers with whom the Employer or any of its subsidiaries has a business relationship to cancel or terminate any such business relationship with the Employer or any of its subsidiaries or solicit, interfere with or entice from the Employer any employee (or former employee) of the Employer.
16. **Option to terminate on permanent disability of Employee.** Notwithstanding anything in this agreement to the contrary, Employer is hereby given the option to terminate this agreement in the event that during the term hereof Employee shall become permanently disabled, as the term "permanently disabled" is hereinafter fixed and defined. Such option shall be exercised by Employer giving notice to Employee by registered mail, addressed to him in care of Employer at the above stated address, or at such other address as Employee shall designate in writing, of its intention to terminate this agreement on the last day of the month during which such notice is mailed. On the giving of such notice this agreement and the term hereof shall cease and come to an end on the last day of the month in which the notice is mailed, with the same force and effect as if such last day of the month were the date originally set forth as the termination date. For purposes of this agreement, Employee shall be

deemed to have become permanently disabled if, during any year of the term hereof, because of ill health, physical or mental disability, or for other causes beyond his control, he shall have been continuously unable or unwilling or have failed to perform his duties hereunder for thirty (30) consecutive days, or if, during any year of the term hereof, he shall have been unable or unwilling or have failed to perform his duties for a total period of thirty (30) days, whether consecutive or not. For the purposes hereof, the term "any year of the term hereof" is defined to mean any period of 12 calendar months commencing on the first day of July and terminating on the last day of June of the following year during the term hereof.

17. **Termination of employment for cause.** The Employee will be terminated immediately for any of the following actions: Conviction of a Felony, Dishonesty, Fraud, Embezzlement, Harassment of any kind, Insubordination, or Moral Turpitude. Possession of illegal substances while on the property is also prohibited. If the employee is terminated for any of these actions, this contract is void and the employee is to forfeit any vacation or leave pay they have accrued.

18. **Discontinuance of business as termination of employment.** Anything herein contained to the contrary notwithstanding, in the event that Employer shall discontinue operations at the premises mentioned above, then this agreement shall cease and terminate as of the last day of the month in which operations cease with the same force and effect as if such last day of the month were originally set forth as the termination date hereof.

19. **Employee's commitments** binding on Employer only on written consent Employee shall not have the right to make any contracts or other commitments for or on behalf of Employer within the written consent of Employer.

#### MISCELLANIOUS

20. **Return of materials.** Upon termination of his employment for any reason, Employee (or in the event of termination due to Employee's death, his surviving spouse or personal representative, as applicable) shall promptly deliver to the Employer all materials of a secret or confidential nature relating to the Employer's business, which are in the possession or

under the control of Employee. All records, designs, patents, business plans, financial statements, manuals, memoranda, customer lists, customer database, rolodex and other property delivered to or compiled by the Employee by or on behalf of the Employer (including the respective subsidiaries thereof) or its representatives, vendors or customers which pertain to the business of the Employer (including the respective subsidiaries thereof) shall be and remain the property of the Employer, and be subject at all times to its discretion and control. Upon the request of the Employer and, in any event, upon the termination of the Employee's employment with the Employer, the Employee shall deliver all such materials to the Employer. Likewise, all correspondence, reports, records, charts, advertising materials and other similar data pertaining to the business, activities or future plans of the Employer which are collected by the Employee shall be delivered promptly to the Employer without request by it upon termination of the Employee's employment.

21. **Proof of right to work.** For purposes of federal immigration law, you will be required to provide the Employer documentary evidence of your identity and eligibility for employment in the united states. Such documentation must be provided to us within three (3) business days of your date of hire, or our employment relationship with you may be terminated.
22. **Contract terms to be exclusive.** This written agreement contains the sole and entire agreement between the parties, and supersedes any and all other agreements between them. The parties acknowledge and agree that neither of them has made any representation with respect to the subject matter of this agreement or any representations inducing the execution and delivery hereof except such representations as are specifically set forth herein, and each party acknowledges that he or it has relied on his or its own judgment in entering into the agreement.

The parties further acknowledge that any statements or representations that may have heretofore been made by either of them to the other are void and of no effect and that neither of them has relied thereon in connection with his or its dealings with the other.

23. **Waiver or modification ineffective unless in writing.** No waiver or modification of this

agreement or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the party to be charged therewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration, or litigation between the parties arising out of or affecting this agreement, or the rights or obligations of any party hereunder, unless such waiver or modification is in writing, duly executed as aforesaid. The provisions of this paragraph may not be waived except as herein set forth.

24. **Notice.** Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed given or delivered and received (i) when delivered personally (which shall be deemed to include delivery via express courier such as Federal Express), or (ii) three days after having been sent by registered or certified mail, return receipt requested, or (iii) upon receipt when sent by facsimile, telegram or telex followed by a confirmation letter sent by registered or certified mail, return receipt requested, addressed as follows:

If to the Employer:  
Feather River Rail Society.  
P.O. Box 608  
Portola, California, 96122  
Fax: (775) 677-2093  
Attention: President

If to Employee:  
John Walker  
Add1  
Add2  
City, State, ZIP  
Fax: (800) 555-1212

Either the Employer or Employee may, at any time, by notice to the other, designate another address for service of notice on such party.

25. **Contract governed by law.** This agreement and performance hereunder and all suits and special proceedings hereunder shall be construed in accordance with the laws of the state of California.

Employer \_\_\_\_\_, Employee \_\_\_\_\_

26. **Headings.** The paragraph headings contained herein are for convenience of reference only and are not to be used in the construction or interpretation hereof.

27. **Arbitration of Disputes.** Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its National Rules for the Resolution of Employment Disputes, and judgment upon the award rendered by the arbitrator(s) may be entered by any court having jurisdiction thereof.

**ACKNOWLEDGEMENT.** Employee acknowledges that he has read, understood and accepts the provisions of this agreement. He also acknowledges that he has had the opportunity to and has reviewed the terms and conditions of this agreement.

[signature page follows]

In witness whereof, the parties have executed this employment agreement as of the date written above.

**Employer**

By: Rod McClure

\_\_\_\_\_

President, Feather River Rail Society

**Employee**By: John Walker  

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**Checklist:****Please verify these points****This is a general checklist of key items to consider when drafting a contract. Depending on the contract, some of these may be inapplicable. Other provisions not included here may be appropriate for specialized contracts.**

Is the contract complete? Does it include ALL documents referenced in the agreement (attachments, exhibits, etc.)?	YES	NO
<p>Are the parties clearly identified? Look for ALL of these:</p> <ul style="list-style-type: none"> <li>• Corporate/individual names of other party</li> <li>• Authority of representative to sign: Point of contact for each party (name, address, email, telephone, fax)</li> <li>• Identity of person authorized to sign for component</li> </ul>		
Are there specific (month, day, year) beginning and ending dates?		
Does the agreement provide that the parties may terminate it at any time? If so, is this consistent with the purpose of the agreement?		
Are the events that are considered to be a default listed? Are they clear and specific?		
Is the consideration (i.e., the money, property, or other benefit) stated clearly and accurately?		
Do typed numbers match digits?		
Are the rights and obligations of each party set out clearly?		
Are the time for performance and the place of performance clearly identified?		
Is the other party required by the contract to have insurance?		
Does the contract contain dispute resolution and claims reviewer statements?		

Employer \_\_\_ Employee \_\_\_

Are the technical terms or acronyms defined?		
<p>Miscellaneous:</p> <ul style="list-style-type: none"> <li>• The governing laws are identified?</li> <li>• Does the contract state that it is the entire agreement between the parties?</li> <li>• Does the contract say how notice is to be given to all parties?</li> <li>• Does the signature page show all required signatures?</li> <li>• Does the contract state whether or not it is assignable?</li> <li>• Is there an effective date contained within the contract?</li> </ul>		