

**EMPLOYMENT AGREEMENT FOR FIRE CHIEF OF  
THE FALLEN LEAF LAKE COMMUNITY SERVICES DISTRICT**

WHEREAS Fire Chief Gary Gerren has been employed by the Fallen Leaf Lake Community Services District (hereinafter referred to as “CSD” or “District”) since 2010, but the District did not have adequate funds at that time to provide him with significant retirement benefits as part of his employment package;

WHEREAS, Chief Gerren has significantly improved the professionalism, efficiency, and performance of the Fallen Leaf Fire Department; and

WHEREAS Chief Gerren has created a high-quality program for the training of qualified local personnel in the fighting of fires; and

WHEREAS Chief Gerren has created a program whereby paramedics are available 24/7 during the Spring, Summer and Fall months of the year; and

WHEREAS Chief Gerren has significantly upgraded the number and quality of fire-fighting operations at Fallen Leaf Lake, so as to improve fire department response times and structure-fighting capabilities in a time when homeowner fire insurance availability has decreased; and

WHEREAS Chief Gerren has created a strike team program that has assisted in the suppression of wildfires throughout the state of California and has thereby assisted and been indirectly responsible for the preservation of human lives and of highly valuable real and personal property, and

WHEREAS Chief Gerren has stabilized the financial status of the Fallen Leaf Fire Department such that the prospects for the future are bright,

NOW THEREFORE, as the District's Governing Board constructs this final five-year Agreement by which Chief Gerren will continue to hold office as Fire Chief, we do so on behalf of the entire Fallen Leaf Lake community and with their thanks and gratitude for a job well done.

This Agreement is made as of May 28, 2022 by and between the Fallen Leaf Lake Community Services District, a community services district (and defined as actions or approvals as determined in accordance with the CSD bylaws) organized and existing pursuant to Sections 61000 and following of the Government Code and Gary D. Gerren (hereafter referred to as "Fire Chief").

The term of this Agreement is backdated to May 1, 2021 because Gerren has been working out of contract since that date, and this Agreement shall retroactively apply to compensate Chief Gerren.

In consideration of the mutual covenants and promises of the parties, CSD agrees to employ Fire Chief "at will" and Fire Chief agrees to be employed by CSD "at will" as its Fire Chief pursuant to the following terms and conditions.

**1. Term**

CSD is employing the Fire Chief as an at-will employee. The period of this Agreement is for 60 months, commencing May 1, 2021 and continuing through and including April 30, 2026, unless earlier terminated as provided in this Agreement.

**2. Fire Chief's Responsibilities**

- A. Fire Chief shall report to the CSD's Board of Directors or its designee.
- B. Fire Chief shall devote his time, attention and energies to the business of the CSD as it relates to fire prevention, suppression, and emergency medical services, and shall perform the

duties generally described in the job description attached to this Agreement as Exhibit “A,” and other such duties that the District may reasonably assign from time to time. The Fire Chief’s duties may be reasonably modified at the District’s direction from time to time. During the term of this Agreement, Fire Chief shall not be engaged in any activity, whether or not for profit or compensation, outside of the employment relationship created under this Agreement, which would conflict with Fire Chief’s obligations or responsibilities or which would be detrimental to the District. However, Fire Chief may be employed as the District’s General Manager, and may perform duties pursuant to that position concurrently with duties as Fire Chief.

C. Fire Chief agrees to observe and comply with the current duties of fire chief in accordance with standard accepted practices, and all reasonably related duties and operating procedures adopted or approved by the CSD.

D. Notwithstanding any other provision contained in the Agreement, Fire Chief shall not, and he expressly agrees that he shall not, engage in any of the following activities without the prior written consent of the CSD:

- (1) Make any non-budgeted purchase for capital equipment or for any other purposes exceeding \$5,000.
- (2) Obligate the CSD in any amount by borrowing, obtaining credit, guaranteeing, or otherwise promising CSD responsibility, except in the ordinary course of fulfilling Fire Chief’s responsibilities hereunder, and in no case in excess of \$5,000.00.
- (3) Sell, transfer, or encumber CSD capital assets (those items with greater than \$5,000.00 current value) without prior Board approval.

E. Fire Chief shall provide the Governing Board with a report regarding an update of the Fire Department Master Plan at the request of the Board.

F. Fire Chief shall present to the Board annually at its December meeting a written report listing all grants for which he intends to apply in the ensuing calendar year, including: the use of the grants, the potential amounts of the grants, and any CSD matching fund requirements and the proposed sources of any matching funds.

### **3. Year-Round Employment**

CSD's fire department has two modes of operations: "Summer Mode" and "Winter Mode". During Winter Mode, the FLFD is "Volunteer Only". The FLFD volunteers have their pagers and make every effort to respond to emergencies given current road and weather conditions. During "Summer Mode" normally May 15 to October 15 (or to the end of "Fire Season" whichever is later of each year), the FLFD also endeavors to staff the district with the Fire Chief and with seasonal Firefighters, EMT and EMTP in the District at all times continuously. It is understood by and between the parties hereto that Fire Chief shall reside at the residence provided by the CSD at Fallen Leaf Lake one month prior to the commencement of the Summer Mode / Fire Season through two weeks following termination of the Fire Season ("Change from Summer Mode to Winter Mode"). Duties of the Fire Chief during the Opening and Shutdown Period are described in the Standard Operating Procedures ("SOP") as adopted by the CSD and revised from time to time. It is agreed that the determination of the commencement and termination of Fire Season shall be according to CalFire's determination of fire season with different dates possible based on local conditions and recommendations of the Fire Chief. During the Fire Season. Fire Chief is entitled to two days off per week. Fire Chief agrees to assume responsibility for ensuring

appropriate coverage during his time off and agrees to work most Fridays, Saturdays and Sundays during “Summer Mode”. During the term of this Agreement that is not the Opening and shutdown Period and the Fire Season (“Winter Mode of Operations”), the Fire Chief’s duties to CSD shall continue.

#### **4. Fire Chief’s Compensation**

The Fire Chief shall be compensated as follows:

A. For the Term of this Agreement, the Fire Chief shall be paid a base salary, commencing May 1, 2021 of \$150,000.00 per year, payable on a monthly basis. The Board may, but shall not be required to, consider annual increases in the base salary of Fire Chief.

B. The Fire Chief will be subject to a performance review by the Board on an annual basis. This review shall be completed by the Labor Day meeting of the Board for the previous fiscal year. As part of the review, the Board shall determine whether Fire Chief shall be entitled to a bonus for the applicable fiscal year. The amount of the bonus, if any, shall be in the sole discretion of the Board. However, if the Board does not make a determination of the bonus on or before the Labor Day meeting, then Fire Chief shall be automatically entitled to receive a bonus for the applicable year equal to 5% of his base salary for the previous year. For 2022, any bonus shall be based on Fire Chief’s FY 2021-2022 annual base salary. Bonuses, if any, shall be paid to Fire Chief promptly following the applicable Labor Day meeting.

C. The Fire Chief shall be required to live in District-provided housing during the Fire Season and the Opening and Shutdown period at 400 Fallen Leaf Road, 2<sup>nd</sup> floor, Fallen Leaf Lake, CA. The Fire Chief shall abide by and conform to the policies and procedures of the community area (“Policies and Procedures”) now in effect or as may be revised from time to time. During

Summer Mode when Fire Chief resides in housing provided by CSD the CSD will pay all utilities. The CSD recognizes that the presence of the Fire Chief is a benefit to the community and therefore there will also be no rental change for CSD provided housing.

D. The Governing Board acknowledges that the District has not provided Fire Chief Gerren with retirement benefits of any kind during his long tenure with the District. In an effort to acknowledge the Fire Chief's outstanding contributions and efforts over the years with respect to the District, the District will provide him with deferred compensation and contributions as follows:

- 1) The District will make the maximum yearly payroll contribution to the Fire Chief's Individual Retirement Account (IRA), which in 2022 is \$7,000 per year, each year for the duration of this Agreement. This compensation is considered a cash benefit for purposes of Government Code section 53261.
- 2) If the federal Internal Revenue Service's contribution limits increase during the Agreement's five-year period for the Fire Chief's IRA, the amounts shall increase to the maximum amount permitted.
- 3) Fire Chief shall receive a one-time bonus of \$200,000 as of the date of execution of this Agreement. However, the payments on that bonus will be paid in five equal installments of \$40,000 per year. The first of the five installments must be paid within one week of the execution of this Agreement. The remaining four installments must be paid by the last day of April each year between 2022 and 2026. This bonus is independent of, and shall not be construed to be a part of, the annual discretionary performance bonus identified in Section 4(B) above.

4) The CSD will make a contribution of \$12,000 per year (a year defined as May 1 to April 30 and prorated for any period of less than 12 months) commencing May 1, 2021 to the Fire Chief to partially cover the costs of health and life insurance coverage (including but not limited to overall health and wellness, vision, dental, acupuncture, chiropractor and inclusion of the same benefits for dependents) during the term of this Agreement. The amount of the contribution shall increase by \$1,000 per year during the term of this Agreement, commencing May 1, 2022 (e.g., the contribution for the 12 months ending April 30, 2026 will be \$16,000).

5) Fire Chief shall accrue one (1) sick day per month during the term of the Agreement. Fire Chief shall not be paid for accrued, unused sick days at the conclusion of the term of this Agreement.

6) The CSD will provide a vehicle for use on CSD business as General Manager as well as Fire Chief. CSD shall provide all fuel, maintenance and insurance for said vehicle. In the event a vehicle is not provided by CSD for use on CSD business, Fire Chief will be paid mileage as determined and adjusted by IRS from time to time for use of Fire Chief's personal vehicle on CSD business. Payment will be made upon receipt of appropriate documentation of official CSD use.

## **5. Termination of Agreement**

This Agreement may be terminated only as follows:

(a) **Resignation:** The Fire Chief may resign and terminate this Agreement provided that the Fire Chief has given the Governing Board written notice at least ninety (90) calendar days in advance of the effective date of termination, unless otherwise agreed by the Governing Board. During the term of this Agreement, the

outgoing Fire Chief will provide all possible assistance in the selection of a new Fire Chief during the notice period.

(b) **Mutual Agreement:** The District and Fire Chief may, by mutual written agreement, terminate the Agreement at any time. Any mutual termination including a cash settlement shall be subject to the provisions of Government Code section 53260, which restricts any cash settlement to no more than the lesser of the then monthly salary plus deferred compensation times eighteen (18) months, or the remaining term of the agreement.

(c) **Termination by Board – For Cause:** The District retains the right to terminate this Agreement at any time for Cause. Cause is defined as follows:

(1). Breach by Fire Chief of any material term of this Agreement; provided, that, Fire Chief shall be notified in writing of termination and an explanation of the Cause for termination. If, in the sole discretion of CSD, the stated breach may be cured within a time and in a manner acceptable to CSD, Fire Chief shall be so advised and shall have the opportunity to effect such cure. Failure to timely effect such cure in the sole judgement of CSD shall be Cause for immediate termination with no further right to cure.

(2). Upon long term disability or other disability of the Fire Chief rendering him unable to fully perform his obligations as required herein, as reasonably determined by labor law.

(3). Upon the willful breach of this Agreement, the material neglect of Fire Chief's obligations as provided herein, or other such willful conduct which, in



the sole judgment of CSD, justifies immediate termination without further notice or right because of material threat to the well-being of the community. Grounds for immediate termination might include gross negligence, malfeasance, moral turpitude, conviction of a felony or unlawful discrimination or harassment.

(4). Upon the conviction of Fire Chief in a court of law of competent jurisdiction of a misdemeanor involving moral turpitude or of any felony.

(d). **Termination by Board – Without Cause:** The Board may, for any reason, without cause or a hearing, terminate this Agreement at any time. In consideration for the exercise of this right, the District shall pay to the Fire Chief a monthly sum equal to the difference between the Fire Chief's salary in effect during the Fire Chief's last month of service and the amount earned after the effective date of termination for the duration of this Agreement or eighteen (18) months, whichever is less. Payments to the Fire Chief shall be made on a monthly basis unless the Board agrees otherwise.

For the purposes of this Agreement, the term "salary" shall include the Fire Chief's regular monthly base salary plus yearly retirement benefits (which may be calculated on a monthly pro-rata basis). Payments made pursuant to this termination without cause provision may be subject to applicable payroll deductions and treated as compensation for state and federal tax purposes. No payments made pursuant to this early termination provision shall constitute creditable service or creditable compensation for retirement purposes. Payments made pursuant to this termination with cause provision shall be considered as final settlement pay and shall not count for any retirement purposes; accordingly, no deductions shall be made for retirement purposes.

The parties agree that any damages to the Fire Chief that may result from the Governing Board's early termination of this Agreement cannot be readily ascertained. Accordingly, the parties agree that the payments made pursuant to this termination-without-cause provision constitute reasonable liquidated damages for the Fire Chief, fully compensate the Fire Chief for all tort, contract, and other damages of any nature whatsoever, whether in law or equity, and do not result in a penalty. The parties agree that the District's completion of all its obligations under this provision constitutes the Fire Chief's sole remedy to the fullest extent provided by law. Finally, the parties agree that this provision meets the requirements governing maximum case settlements as set forth in Government Code sections 53260, et seq.

(e). **Death or Disability:** Death of the Fire Chief shall immediately terminate this Agreement. In such event, all salary and other monetary amounts due to the Fire Chief up to the time of death, if any, shall be paid to the Fire Chief's estate unless otherwise declared in writing by the Fire Chief or directed by the executor of the Fire Chief's estate. Notwithstanding the foregoing, the installment payments for the already-earned bonus identified in Paragraph 4(d)(3) to this Agreement shall continue to be made in installments in keeping with the time periods identified in that Paragraph even after the death of the Fire Chief, but shall be paid to the Fire Chief's estate unless otherwise declared in writing by the Fire Chief or directed by the executor of the Fire Chief's estate.

## **6. Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of California and the federal laws of the United States of America applicable therein. Any

controversy or claim arising out of or relating to this Agreement shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon an award arising in connection therewith may be entered in any court of competent jurisdiction.

#### **7. Survival**

In the event that any provision herein is determined to be unenforceable under the current law at the time of execution of this Agreement, or unenforceable under a law that may supersede that law in place at the time of execution, all other provisions and the intent of the Agreement shall survive such findings and remain in full force and effect.

#### **8. Waiver of Rights**

No provision of this Agreement may be modified, waived or discharged unless such waiver, modification or discharge is agreed to in writing by the party against whom the same is sought to be enforced and no failure by either party to enforce any of its rights hereunder shall, except as aforesaid, be deemed to be a waiver of such right. No waiver by either party hereto at any time of any breach by the other party hereto of, or compliance with, any provision of this Agreement to be performed by such other party shall be deemed to be a waiver of a similar or dissimilar provision hereof at the same or any prior or subsequent time.

#### **9. Modifications**

Any modifications to this Agreement shall be effective only if in writing and signed by both of the parties hereto.

## **10. Notices**

Any notice required or permitted to be given under this Agreement shall be in writing and shall be properly given if delivered personally or mailed prepaid registered mail addressed as follows:

In the case of the Fallen Leaf Lake Community Services District:

Fallen Leaf Lake Community Services District  
Attention: CSD Board President  
P.O. Box 9415  
South Lake Tahoe, CA 96158

In the case of Gary D. Gerren:

Gary D. Gerren  
2602 E 20<sup>th</sup> St. #107  
Signal Hill, CA 90755

## **11. Entire Agreement**

This mutually signed Agreement, attached Exhibits and any properly executed and signed Amendments, or Directives as approved by the District from time to time and incorporated herein, constitutes the entire agreement between the parties with respect to the Agreement contemplated hereby and cancels and supersedes all prior undertakings and agreements between the parties with respect thereto and no agreements or representations, oral or otherwise, express or implied, with respect to the subject matter hereof have been made by either party which are not expressly set forth in this Agreement.

## **12. Construction.**

Each party has cooperated in the drafting and preparation of this Agreement. Hence, in any construction to be made of this agreement, the same shall not be construed against any party

of the basis that the party was the drafter. The captions of this Agreement are not part of the provisions of this Agreement and shall have no force or effect.

**13. Independent Representation.**

The Fire Chief and the Governing Board each recognize that in entering into this Agreement, the parties have relied upon, or had the opportunity to consult with and rely upon, the advice of their own attorneys or other representatives, and that the terms of this Agreement have been completely read and explained to them by their attorneys or representatives, and that those terms are fully understood and voluntarily accepted.

**14. Provisions Required by Government Code.**

To the extent applicable, this Agreement is subject to the provisions of Government Code Sections 53243-53243.4 which requires reimbursement under the circumstances stated therein, as listed below.

53243. On or after January 1, 2012, any contract executed or renewed between a local agency and an officer or employee of a local agency that provides paid leave salary offered by the local agency to the officer or employee pending an investigation shall require that any salary provided for that purpose be fully reimbursed if the officer or employee is convicted of a crime involving an abuse of his or her office or position.

53243.1. On or after January 1, 2012, any contract executed or renewed between a local agency and an officer or employee of a local agency that provides funds for the legal criminal defense of an officer or employee shall require that any funds provided for that purpose be fully reimbursed to the local agency if the officer or employee is convicted of a crime involving an abuse of his or her office or position.

53243.2. On or after January 1, 2012, any contract of employment between an employee and a local agency employer shall include a provision which provides that, regardless of the term of the contract, if the contract is terminated, any cash settlement related to the termination that an employee may receive from the local agency shall be fully reimbursed to the local agency if the employee is convicted of a crime involving an abuse of his or her office or position.

53243.3. On or after January 1, 2012, if a local agency provides, in the absence of a contractual obligation, for any of the payments described in this article, then the employee or officer receiving any payments provided for those purposes shall fully reimburse the local agency that provided those payments in the event that the employee or officer is convicted of a crime involving the abuse of his or her office or position.

53243.4. For purposes of this article, "abuse of office or position" means either of the following:

- (a) An abuse of public authority, including but not limited to, waste, fraud, and violation of the law under color of authority.
- (b) A crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67), Title 6 (commencing with Section 85), or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.

The intent of this Section is to satisfy the requirements in Government Code Sections 53243, 53243.1, 53243 .2, 53243 .3 and 53243 .4, and this Agreement shall be interpreted consistent with these statutes.

The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

**15. Miscellaneous**

Each of the parties represents that it is duly authorized to execute this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to the same Agreement.

**Agreed to:**

FALLEN LEAF LAKE COMMUNITY SERVICES DISTRICT

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Robert J Cathcart, President

FIRE CHIEF

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Gary D. Gerren