

## EMPLOYMENT AGREEMENT

**THIS EMPLOYMENT AGREEMENT** is effective as of July 1, 2018, between the **ARROWBEAR PARK COUNTY WATER DISTRICT**, a public agency and controlling entity for the **ARROWBEAR LAKE FIRE DEPARTMENT**, (“**APCWD/ALFD**”), and \_\_\_\_\_, an individual (“**EMPLOYEE**”). **APCWD/ALFD** and **EMPLOYEE** are sometimes collectively referred to herein as the "**PARTIES**."

### AGREEMENT

In consideration of the mutual promises and conditions in this Agreement, the **PARTIES** agree as follows:

**1. Duties and Authority.** **APCWD/ALFD** shall employ **EMPLOYEE** as the Part-time Battalion Chief of **ARROWBEAR LAKE FIRE DEPARTMENT**, with full power and authority to perform all of the duties set forth in applicable law, **APCWD/ALFD** ordinances, resolutions and/or pursuant to actions of the Board of Directors taken from time-to-time, and shall include any and all existing and hereafter adopted applicable laws, rules, regulations, and guidelines of **APCWD/ALFD**, the State of California, and/or other agencies having jurisdiction within or over **APCWD/ALFD**. **EMPLOYEE's** qualifications and duties are enumerated in the **ALFD** Standard Operating Policy Handbook, Policy #2850 and are incorporated into this agreement. Duties under the direction of the **ALFD** Fire Chief shall include, but shall not be limited to, supervising **ALFD** personnel, attending to **ALFD** financial matters, attending meetings of the Board of Directors, supervising the administration of operations of **ALFD**, and managing and conducting business of **ALFD**, subject to policies set by the Board of Directors. In addition, **EMPLOYEE** shall perform any special duties assigned or delegated to him by the **APCWD** General Manager and **APCWD** Board of Directors.

**2. Restrictions on Outside Employment and Business Activities.** During his employment, **EMPLOYEE** shall comply with the **APCWD** Policy #2240 governing Outside Employment and Policy #1020 Conflict of Interest and shall not, without **APCWD's** prior written consent, render to others, services of any kind for compensation or engage in any other business activity that would interfere with the performance of his duties under this Agreement. Exception is granted for **EMPLOYEE's** existing business enterprise as of the date of this agreement provided the enterprises create a conflict of interest and do not contract with or provide materials or services to the **ALFD**.

**3. Term of Employment.** Subject to negotiated extensions or earlier termination as provided for in this Agreement, **EMPLOYEE** shall be employed for a term beginning on July 1, 2018, and ending on June 30, 2019.

**4. Extension of Term of Employment.** The term of employment provided for in Paragraph 3 above may be extended by mutual agreement of the **PARTIES**. Negotiations to extend the term of this Agreement shall commence at the request of either **PARTY** made on or

before the beginning of the third (3rd) month prior to the termination date provided for in Paragraph 3. Negotiations shall commence as soon as possible after such request, and shall be completed no less than 30 days before expiration of the Agreement. Negotiations shall be conducted by the **PARTIES** in good faith, and each **PARTY** shall deal with the other fairly. Neither **PARTY** shall make arbitrary or capricious demands during negotiations. The **PARTIES** acknowledge and agree that, despite their best efforts, mutual agreements to extend the term of the Agreement may not be achieved. In such event, this Agreement shall terminate on the date provided for in Paragraph 3 above.

5. **Place of Employment.** Unless the **PARTIES** agree otherwise in writing, during the employment term **EMPLOYEE** shall perform the services he is required to perform under this Agreement at **APCWD/ALFD's** offices, located in Arrowbear Lake, California; provided, however, that **APCWD/ALFD** may, from time-to-time, require **EMPLOYEE** to travel temporarily to other locations on **APCWD/ALFD's** business.

6. **Salary.** **APCWD/ALFD** shall pay a basic salary to **EMPLOYEE** at the rate of \$9,995.84 per year, payable in bi-weekly installments of \$384.45 to be paid on **APCWD/ALFD's** biweekly pay period cycles, and subject to appropriate withholdings. Should this Agreement be terminated other than on the first work day of a month, the monthly compensation shall be prorated for that month.

Salary and compensation is governed by Policy #2150.60.2. **Board Approved Part-time Battalion Chief.** *A part-time (less than 980 hours per calendar year), contract, salaried, Battalion Chief, appointed by the General Manager (based upon the recommendation of the Fire Chief), will be compensated at 50% of the of the Board Approved Salary Range minimum monthly salary for the Part-time Fire Chief. The Part-time Battalion Chief will not be eligible for additional compensation for District coverage or for paid call firefighting. The Part-time Battalion Chief will be eligible for additional compensation for calls and drills.*

The basic salary payable to **EMPLOYEE** under this paragraph (the "Basic Salary") shall be subject to a cost-of-living increase as provided in **APCWD/ALFD's** Policy Handbook, Policy 2150.25.1.

a. **EMPLOYEE** may, at his option, require that such portion of said salary as he may designate be put into tax-sheltered investments as deferred income.

b. The parties have agreed to utilize the partial exemption contained in Section 7(k) of the Fair Labor Standards Act. Therefore, Employee shall only be paid overtime if he works more than 212 hours in a 28-day period. The 28-day period shall begin on July 1, 2017. Employee must have approval from the General Manager prior to working more than 212 hours in a 28-day period. It is the parties' intent that Employee's salary is meant to compensate him for up to 95 hours of work in each bi-weekly pay period. Employee must have approval from the General Manager prior to working more than 75 hours in the bi-weekly pay period.

c. In accordance with the requirements of Government Code Section 53243, any salary paid to **EMPLOYEE** shall be fully reimbursed if **EMPLOYEE** is convicted of a crime involving an abuse of his position.

7. **Hours of Work and Reporting.** As a part-time, salaried employee, **EMPLOYEE**'s salary is compensation for up to 979 hours of work per year. **EMPLOYEE** is granted the discretion of determining when he/she performs the work; provided the work, duties, goals, and responsibilities of **ALFD** are being met as determined by the General Manager and the Fire Chief. **EMPLOYEE** shall submit a bi-weekly timecard to the District Office, documenting the hours worked as well as the sick leave hours taken. The timecard will be submitted on the Monday following the end of the bi-weekly pay period.

8. **Additional Benefits.** During the employment term, the part-time, salaried **EMPLOYEE** **shall not** be entitled to receive additional benefits of employment available to **APCWD/ALFD**'s full-time employees. Employee shall only be entitled to benefits explicitly set forth in this Agreement.

a. **EMPLOYEE** **shall** be entitled to three (3) days of compensated sick leave in each contract year, to be taken, as necessary throughout the year. Such sick leave will not accrue from contract year to contract year. Compensated sick leave has no accrued cash value.

9. **Expenses.** During the employment term, **APCWD/ALFD** shall reimburse **EMPLOYEE** for reasonable out-of-pocket expenses incurred in connection with **APCWD/ALFD**'s business, including travel expenses, food, and lodging while away from home, subject to such policies as **APCWD/ALFD** may from time-to-time reasonably establish for its employees. **EMPLOYEE** shall also be entitled to reasonable reimbursement for attendance at conventions, conferences, annual meetings and seminars which are appropriate to the goals of **APCWD/ALFD**; provided there is prior Board approval.

10. **Automobile Allowance.** During the employment term, **APCWD/ALFD** may furnish to **EMPLOYEE**, if available, a motor vehicle owned by **APCWD/ALFD** during the work day for business purposes. **EMPLOYEE**'s use of **APCWD/ALFD** vehicles shall conform to **APCWD/ALFD**'s policies governing the use of vehicles. In the event **EMPLOYEE** uses his personal vehicle on **APCWD/ALFD** business, **APCWD/ALFD** shall reimburse **EMPLOYEE** at the then-current IRS rate for reimbursement of mileage. Reimbursement of expenses shall be made on the basis of itemized statements to which shall be attached actual bills, receipts, or other evidence of expenditures. **EMPLOYEE** shall not be reimbursed for any expenses in excess of those authorized by this Agreement unless approved in advance by the Board of Directors of **APCWD/ALFD**, in writing.

11. **Uniform Allowance.** During the employment term, **APCWD/ALFD** will provide to **EMPLOYEE** a \$300.00 uniform allowance.

12. **Indemnification by APCWD/ALFD.** **APCWD/ALFD** shall defend, as required by applicable law and with counsel of **APCWD/ALFD**'s choice, and indemnify and hold

**EMPLOYEE** harmless against any and all expenses, reasonable attorneys' fees, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with any and all claims, liabilities, losses, demands, actions, obligations or causes of action, whether in tort or contract arising out of an act or omission occurring within the scope of Employee's employment as an Employee of **APCWD/ALFD**. The provisions of this Paragraph shall survive the termination of this Agreement.

Funds provided to **EMPLOYEE** for the legal criminal defense of **EMPLOYEE** shall be reimbursed to **APCWD/ALFD** if **EMPLOYEE** is convicted of a crime involving an abuse of his position, as required by Government Code Section 53243.1.

**13. Termination of Agreement.**

**a. Termination Without Cause.** **APCWD/ALFD** or its General Manager or Fire Chief may, forthwith and without prior notice, terminate this Agreement without cause by providing Employee with written notice of termination.

**b. Termination for Cause.** **APCWD/ALFD** may terminate this Agreement at any time if **EMPLOYEE** commits any material act of dishonesty; discloses confidential information, is guilty of gross carelessness or misconduct; unjustifiably neglects his duties under this Agreement which has a direct, substantial and adverse effect on **APCWD/ALFD's** finances, financial ability or position; or acts in any way that has a direct, substantial, and adverse effect on **APCWD/ALFD's** reputation.

**c. Termination on Resignation.** **EMPLOYEE** may terminate this Agreement by giving **APCWD/ALFD** at least 90 days' (or more if possible) prior written notice of resignation.

**d. Termination on Disability.** If, at the end of any calendar month during the initial term or any renewal term of this Agreement, **EMPLOYEE** is and has been unable for four (4) consecutive full calendar months then ending (including sick leave), or for eighty percent (80%) or more of the normal working days during the six (6) consecutive full calendar months then ending (including sick leave), due to mental or physical illness or injury, to perform his duties under this Agreement in his normal and regular manner, this Agreement shall then be terminated. **APCWD/ALFD** has advised **EMPLOYEE** that it currently maintains disability insurance for its employees, including **EMPLOYEE**. During the term of this Agreement, **APCWD/ALFD** shall maintain disability insurance covering **EMPLOYEE** on terms and conditions no less favorable than the terms and conditions in effect at the date of this Agreement. If and to the extent that **EMPLOYEE** receives payments in respect of such disability insurance during the period in which **APCWD/ALFD** is obligated to make payments concerning disability compensation, **APCWD/ALFD** shall be relieved of the obligation to make such payments to **EMPLOYEE** to the extent of the amounts so received by **EMPLOYEE**, but, except as so qualified, **APCWD/ALFD's** obligations to make such payments shall continue in full.

e. **Termination on Death.** If **EMPLOYEE** dies during the initial term or during any renewal term of this Agreement, this Agreement shall be terminated on the last day of the calendar month of his death.

f. **Dissolution of the District or Department.** This Agreement shall be terminated by any voluntary or involuntary dissolution of **APCWD/ALFD** for any reason.

**14. Miscellaneous Provisions.**

a. **Integration.** This Agreement contains the entire agreement between the **PARTIES** and supersedes all prior oral and written agreements, understandings, commitments, and practices between the **PARTIES**, including all prior employment agreements, whether or not fully performed by **EMPLOYEE** before the date of this Agreement. No amendments to this Agreement may be made except by a writing signed by the **PARTIES**.

b. **Severability.** If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement shall nevertheless remain in full force and effect. If any provision is held invalid or unenforceable with respect to particular circumstances it shall nevertheless remain in full force and effect in all other circumstances.

c. **Evaluation of Performance.** **APCWD/ALFD** may, by and through its General Manager or Fire Chief, evaluate the performance of **EMPLOYEE**. Such evaluations may be used as a basis for determining extension of the agreement. Each evaluation may establish performance goals and objectives, as appropriate.

d. **Arbitration.** Any dispute which may arise by and between **APCWD/ALFD** and **EMPLOYEE** shall be submitted to binding arbitration. Arbitration shall be conducted by the Judicial Arbitration and Mediation Services, Inc. ("JAMS"), in accordance with its rules that are in effect at the time of the commencement of the arbitration proceeding, and as set forth in this Paragraph.

Employee and **APCWD/ALFD** agree that arbitration shall be the exclusive forum for resolving these disputes; provided, however, that either party may request provisional relief from a court of competent jurisdiction, as provided in California Code of Civil Procedure Section 1281.81. **EMPLOYEE** and **APCWD/ALFD** agree to submit any covered claim to binding arbitration pursuant to the provisions of the Federal Arbitration Act, 9 U.S.C. section 1, et seq. (or any successor or replacement statutes).

Claims must be filed within one year of the date the dispute first arose, or within one year of the termination of employment, whichever occurs first; provided, however, that if the **EMPLOYEE's** or **APCWD/ALFD's** claim arises under a statute providing for a longer time to file a claim, that statute shall govern. Failure to timely file a claim shall constitute waiver of any right to raise said claim in any forum. Any demand for arbitration must be in writing.

Arbitration shall be conducted before a single arbitrator. The arbitrator must decide each and every dispute in accordance with the laws of the State of California, and all other applicable laws.

Following a hearing conducted by the arbitrator, in a manner to be determined as mutually agreed to by the parties and/or by the arbitrator, the arbitrator shall issue a written opinion and award which shall be signed and dated. The arbitrator's opinion and award shall decide all issues submitted and shall set forth the legal principles supporting each part of the opinion. The arbitrator shall be permitted to award only those remedies in law or equity which are requested by the parties and which the arbitrator determines to be supported by the credible, relevant evidence. Judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The award of the arbitrator shall be binding, final and unappealable.

**EMPLOYEE** and **APCWD/ALFD** shall each bear their own costs for legal representation at any such arbitration. The cost of the arbitrator and other incidental costs of arbitration that would not be incurred in a court proceeding shall be borne by **APCWD/ALFD**.

Discovery may be conducted in the arbitration proceeding pursuant to Section 1283.05 of the Code of Civil Procedure.

The **EMPLOYEE** and **APCWD/ALFD** hereby agree that this arbitration section shall survive the termination of the **EMPLOYEE**'s employment.

Both the **EMPLOYEE** and **APCWD/ALFD** understand that by using arbitration to resolve disputes they are giving up any right that they may have to a judge or jury trial with regard to all issues concerning employment, except as specifically provided herein.

Unless the **PARTIES** stipulate to the contrary, prior to the appointment of the arbitrator all disputes shall first be submitted to non-binding mediation, conducted by JAMS, in accordance with its rules and procedures for such mediation. This Arbitration Agreement shall not apply to claims for workers' compensation or unemployment insurance benefits.

e. **Agreement is Binding.** This Agreement shall be binding upon and inure to the benefit of **APCWD/ALFD**, its successors and assigns, and shall be binding upon **EMPLOYEE**, his administrators, executors, legatees, heirs, and assigns.

f. **Assignment.** **EMPLOYEE** may not assign or otherwise encumber this Agreement in whole or part. Any such attempted assignment or encumbrance shall be void.

g. **Notices.** Any notice to **APCWD/ALFD** required or permitted under this Agreement shall be given in writing to **APCWD/ALFD**, either by personal delivery, or by certified mail, return receipt requested, postage prepaid, to the Board of Directors of **APCWD/ALFD** at its then principal place of business. Any such notice to **EMPLOYEE** shall be given in a like manner and, if mailed, shall be addressed to **EMPLOYEE** at his home address then shown in **APCWD/ALFD**'s files. For the purpose of determining

compliance with any time limit in this Agreement, a Notice shall be deemed to have been duly given (a) on the date of personal delivery, or (b) on the second business day after mailing, if mailed to the **PARTY** to whom the notice is to be given in the manner provided in this Section.

**h. Waiver.** The failure of either **PARTY** to insist on strict compliance with any of the terms, covenants or conditions of this Agreement by the other **PARTY** shall not be deemed a waiver of that term, covenant or condition, nor shall any waiver or relinquishment of any right or power for all or any other times.

**IN WITNESS WHEREOF**, the **PARTIES** have executed this Agreement to be effective on the day and year first above written.

**ARROWBEAR PARK COUNTY WATER DISTRICT**

By

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President, Board of Directors

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Part-time Battalion Chief