

Fire Chief Employment Contract
between
Aaron Lowe and
the
Aptos/La Selva Fire Protection District

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THIS Fire Chief Employment Contract (“Contract”), made and entered into on April 12, 2018 (the “Effective Date”), by and between the Aptos/La Selva Fire Protection District (hereinafter referred to as (“DISTRICT”) and Aaron Lowe (hereinafter referred to as “FIRE CHIEF”). DISTRICT and FIRE CHIEF may each sometimes be referred to hereafter as “party” or jointly as “parties”. The parties agree as follows:

SECTION 1. DUTIES:

DISTRICT hereby agrees to employ Aaron Lowe as FIRE CHIEF of DISTRICT to perform the functions and duties of FIRE CHIEF as described in DISTRICT’S “Fire Chief Job Description,” attached hereto and identified as Exhibit A, and as it may be duly changed by resolution of the Board of Directors of DISTRICT (the “Board”) from time to time and to perform such other legally permissible and proper related duties and functions as the Board may from time to time assign, provided that any such revisions will result in FIRE CHIEF performing duties and having responsibilities consistent with that of a Fire Chief or Assistant Fire Chief.

FIRE CHIEF agrees to perform such functions and fulfill such duties and conduct himself at all times with due regard to the public conventions and morals. FIRE CHIEF agrees not to do anything or engage in conduct that does or is reasonably likely to bring FIRE CHIEF or DISTRICT into public ridicule.

SECTION 2. TERM:

2.1 Initial Term

This Contract shall become effective when signed by both Parties, which shall be the Effective Date. The initial term of this Contract is three years (the “Initial Term”) measured from the Effective Date.

FIRE CHIEF shall commence work and compensation shall commence on or before April 23, 2018, unless the parties mutually agree otherwise in writing. If FIRE CHIEF intends to resign at any time before the expiration of the term of this Contract, he shall notify DISTRICT in writing 45 days before the date when he intends to cease employment. If FIRE CHIEF fails to provide such notice or if he resigns from employment or if FIRE CHIEF otherwise terminates his employment with DISTRICT, other than in connection with a merger as discussed in Section 2.3, then FIRE CHIEF shall be entitled to earned compensation, including any leave balances as required by law, and no severance payment.

2.2 Extended Term

On the 3rd anniversary of the Effective Date this Contract will renew automatically for an additional two year term (the “Additional Term” and together with the Initial Term, the

“Term”), unless either party provides the other party with written notice of nonrenewal with or without cause by January 31, 2021.

2.3 Merger Provision

In the event of a merger or consolidation involving the DISTRICT and another public agency during the term of this Contract, the parties agree that this Contract will remain in full force and effect. Further, in the event FIRE CHIEF is terminated without cause or resigns for good reason on or following any such merger or consolidation, FIRE CHIEF will be entitled to the termination severance and benefits set forth in Section 8. For these purposes, “good reason” will mean FIRE CHIEF’s resignation within 90 days following the expiration of any DISTRICT cure period (discussed below) following the occurrence of one or more of the following, without FIRE CHIEF’s express written consent: (i) a reduction in FIRE CHIEF’s base salary; (ii) the failure of the DISTRICT to timely pay or provide to FIRE CHIEF any portion of FIRE CHIEF’s compensation or benefits then due to FIRE CHIEF. FIRE CHIEF may not resign for good reason without first providing DISTRICT with written notice of the acts or omissions constituting the grounds for “good reason” within 90 days of the initial existence of the grounds for “good reason” and a reasonable cure period of not less than 30 days following the date DISTRICT receives such notice during which such condition must not have been cured.

SECTION 3. SALARY:

3.1 During Term

DISTRICT agrees to pay FIRE CHIEF for his services an initial annual base salary of \$190,000.00 payable biweekly in the same manner as the District’s payroll.

DISTRICT and FIRE CHIEF shall meet no later than April 1 of each year after the Effective Date to discuss the performance of FIRE CHIEF and whether the FIRE CHIEF has met goals and objectives established by the Board. FIRE CHIEF’S annual salary may be increased (but not decreased) based on such annual review.

The annual base salary may increase by not more than five percent (5%) on May 1 of each year during the Term. The actual amount of any annual increase shall be based on the FIRE CHIEF’s performance and accomplishment of goals and objectives.

Major goals not to exceed three in any one year, may be established by the Board in consultation with FIRE CHIEF no later than June 1 of each year of the Term.

3.2 Longevity Bonus.

Providing FIRE CHIEF remains employed and in good standing at the end of the Initial Term, FIRE CHIEF shall be entitled to a longevity bonus of up to five percent (5%) of his gross annual salary in effect on the day prior to the end of the initial term, payable in one lump sum on or before May 1, 2021.

Providing FIRE CHIEF remains employed and in good standing at the end of the Additional Term, he shall be entitled to a longevity bonus of up to five percent (5%) of his then gross annual salary in effect on the day prior to the end of the additional term, in effect on that date, payable in one lump sum on or before May 1, 2023.

SECTION 4 RELOCATION BENEFITS

FIRE CHIEF shall be reimbursed not to exceed Twenty Thousand Dollars (\$20,000) for the cost of temporary housing, and moving expenses. FIRE CHIEF shall promptly submit all receipts and requests for reimbursement. DISTRICT shall reimburse any properly substantiated expense promptly, but in no event later than March 15, 2019.

SECTION 5. NATIONAL FIRE ACADEMY; PROFESSIONAL ASSOCIATIONS

FIRE CHIEF shall be entitled to an additional two calendar weeks each year as paid leave time to attend the Executive Fire Officer Program at the National Fire Academy. In addition, DISTRICT shall include an amount to be determined by the DISTRICT in consultation with FIRE CHIEF in the proposed budget for each year during the Term, to allow FIRE CHIEF to attend professional conferences and training programs, and to pay for FIRE CHIEF'S dues in the International Association of Fire Chiefs, California Fire Chiefs Association, and the National Fire Protection Association.

SECTION 6. OTHER COMPENSATION:

Except as expressly set forth below, FIRE CHIEF shall receive vacation, holidays, sick leave, executive leave, PERS retirement, health insurance, dental insurance, vision insurance, life insurance, disability insurance and clothing allowance the same as provided in the MEMORANDUM OF UNDERSTANDING BETWEEN the Aptos/La Selva Fire District Chief Officers' Association and the Aptos/La Selva Fire Protection District (January 1, 2017 through December 31, 2019) and as it may be amended from time to time.

Upon the Start Date, FIRE CHIEF shall be credited 60 hours sick leave and shall not accrue sick leave during the first six months of his employment hereunder.

Upon the Start Date FIRE CHIEF shall be credited 128 hours executive leave, pro-rated to the end of the DISTRICT fiscal year, and annually at the beginning of each succeeding fiscal year. Executive leave shall not accrue from fiscal year to year.

SECTION 7. POST RETIREMENT LONGEVITY BENEFIT

DISTRICT established an ICMA Retirement Health Savings Plan (RHS) in March 2005.

All plan design features of the RHS have been negotiated and are mandatory as described in this section. Employer-level administrative fees or maintenance charges for the RHS will be paid by DISTRICT.

FIRE CHIEF shall participate in the new separate Post Retirement Longevity Benefit and receive a DISTRICT contribution into his RHS in the amount of thirty-five dollars (\$35.00) per month for each month of his employment. He shall make a mandatory monthly contribution of \$17.50. The District contribution to the RHS shall vest to the Chief only if he retires from the District for service or service connected disability.

In addition, FIRE CHIEF, upon service or disability related retirement, shall have all terminal sick leave and vacation leave payoff funds contributed directly into the FIRE CHIEF's RHS. Any other form of separation from employment will result in terminal vacation leave payoffs being made directly to the FIRE CHIEF.

FIRE CHIEF participation in the RHS is mandatory in order to receive any Post Retirement Longevity Benefit. All mandatory contributions to the RHS described herein shall be made on the first business day of the month or as close to that as is practical. RHS deposits, withdrawals, and related income tax consequences are governed by applicable law, including the Internal Revenue Code of 1986, as amended, and both DISTRICT and FIRE CHIEF understand this.

SECTION 8. TERMINATION:

FIRE CHIEF may be terminated by DISTRICT, but only by four-fifths (4/5) majority vote of the Board.

Regardless of any other provision of this Contract, DISTRICT may terminate this Contract without cause by providing the FIRE CHIEF with at least forty-five (45) days' written notice of termination. If the DISTRICT elects to terminate this Contract during the Term without cause, FIRE CHIEF shall receive an amount of salary and benefits equal to those which would have been paid during the remaining term of the Contract or twelve months, whichever is less, payable monthly, and offset by any other compensation paid to FIRE CHIEF from any other source.

A condition precedent to entitlement to any such severance payment is that FIRE CHIEF sign a severance agreement in a form mutually satisfactory to the parties which provides for the mutual release of claims by each party (including, with respect to DISTRICT, the Board, all individual elected officials, and all DISTRICT officers, agents and employees) related to or arising out of FIRE CHIEF's employment with DISTRICT.

SECTION 9. CONVICTION OF A CRIME

Notwithstanding any provision to the contrary, FIRE CHIEF shall reimburse to the District any and all leave salary which may be paid to FIRE CHIEF pending any investigation of the employment related conduct of FIRE CHIEF if the FIRE CHIEF is convicted of a crime involving an abuse of his or office or position as defined in Government Code § 53243.4.¹

Notwithstanding any provision to the contrary, FIRE CHIEF shall reimburse the District any and all funds provided for the legal criminal defense of the FIRE CHIEF if FIRE CHIEF is convicted of a crime involving an abuse of his office or position as defined in Government Code § 53243.4.²

Notwithstanding any provision to the contrary, FIRE CHIEF shall reimburse the District any and all cash settlement provided to FIRE CHIEF which is related to the termination of that FIRE CHIEF if FIRE CHIEF is convicted of a crime involving an abuse of his office or position as defined in Government Code § 53243.4.³

SECTION 10. VEHICLE AND TRANSPORTATION EXPENSES; MOBILE PHONE

DISTRICT shall provide FIRE CHIEF a vehicle, vehicle insurance, fuel, and mechanical services for said vehicle. If the DISTRICT provided vehicle is not available, FIRE CHIEF may at FIRE CHIEF'S discretion use another DISTRICT vehicle and incur related DISTRICT expense for official DISTRICT business. DISTRICT shall provide FIRE CHIEF a DISTRICT cell phone.

SECTION 11. INDEMNIFICATION

DISTRICT shall defend with counsel selected in the sole discretion of the DISTRICT, hold harmless and indemnify FIRE CHIEF against any tort, civil rights, personal, discrimination, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the course and scope of FIRE CHIEF'S performance of FIRE CHIEF'S duties. Such indemnity shall cover FIRE CHIEF against any and

¹ California Government Code § 53243

² California Government Code § 53243.1

³ California Government Code § 53243.2

all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney's fees, and any other liabilities incurred by, imposed upon or suffered by FIRE CHIEF.

DISTRICT may compromise and settle any such claim or suit and pay the amount of any settlement or judgment therefrom. Further, any settlement by FIRE CHIEF must be subject to the prior approval of DISTRICT in order for indemnification, as provided under this Section to be available.

DISTRICT'S obligation to defend and indemnify FIRE CHIEF is contingent on FIRE CHIEF's cooperation with DISTRICT, and with defense counsel. In addition, DISTRICT's obligation is contingent on FIRE CHIEF's conduct having occurred within the course and scope of his employment.

In the event of a claim or litigation against both DISTRICT and FIRE CHIEF, DISTRICT may retain a single attorney to defend both parties, unless there appears to be a conflict in the positions of DISTRICT and FIRE CHIEF, then separate counsel shall be retained for each party, and DISTRICT shall pay for both attorneys.

SECTION 12. ALTERNATIVE DISPUTE RESOLUTION

If the parties are unable to resolve a dispute relating to this Contract or otherwise arising from FIRE CHIEF's employment with DISTRICT, they shall submit any such dispute (whether based on contract, tort, constitutional or statutory duty or prohibition, including any prohibition against discrimination or harassment) to arbitration before a single neutral arbitrator in accordance with California Code of Civil Procedure Sections 1280 through 1294.2. Either party may enforce the award of the arbitrator under Code of Civil Procedure Section 1285. The parties understand that they are waiving their rights to a jury trial.

The party demanding arbitration shall submit a written claim to the other party, setting out the basis of the claim and proposing the name of an arbitrator. The responding party shall have ten (10) business days in which to respond to this demand in a written answer. If this response is not timely made, or if the responding party agrees with the person proposed as the arbitrator, then the person named by the demanding party shall serve as the arbitrator. If the responding party submits a written answer rejecting the proposed arbitrator then, unless the parties agree on an arbitrator, either party may apply to the superior court for the appointment of an arbitrator. The superior court shall propose five names. Each party may, within five (5) days after receipt of the proposed names, strike one name from the list.

Thereafter, the court shall appoint as arbitrator a person whose name has not been struck from the list. The arbitrator shall have the power to enter a default award if a party fails to participate in the arbitration.

No one who has ever had any personal, business or financial relationship with the parties shall serve as an arbitrator unless the relationship is fully disclosed and the parties consent in writing to the use of that arbitrator.

The arbitration shall take place in Santa Cruz County, California, at a time and place selected by the arbitrator.

Each party shall be entitled to discovery including the discovery of essential documents and witnesses, as determined by the arbitrator. The arbitrator shall have the powers provided in California Code of Civil Procedure Sections 1282.2 - 1284.2. The arbitrator shall be required to follow all applicable laws in ruling on evidence, conducting the arbitration and making his or her decision.

Within fifteen (15) days after completion of the arbitration, the arbitrator shall submit a tentative decision in writing, specifying the reasoning for the decision and any calculations necessary to explain the award. Each party shall have fifteen (15) days in which to submit written comments to the tentative decision. Within ten (10) days after the deadline for written comments, the arbitrator shall announce the final award. DISTRICT shall pay the arbitrator's expenses and fees, all meeting room charges and any other expenses that would not have been incurred if the case were litigated in the judicial forum having jurisdiction. Each party shall pay their own attorneys' fees unless otherwise ordered by the arbitrator.

Each party shall pay its own witness fees and other expenses incurred by the party for his own benefit.

SECTION 13. GENERAL PROVISIONS:

The provisions of this Contract may be waived, altered, amended, repealed, in whole or in part, only on the written consent of the parties of this Contract.

This Contract shall be binding on and inure to the benefit of the heirs and devisees at law and executors of FIRE CHIEF.

If any provision or any portion of this Contract is held to be unconstitutional, invalid or unenforceable, the remainder of this Contract shall not be affected and shall remain in full force and effect.

Upon execution of this Contract, FIRE CHIEF waives any civil service rights arising from prior employment in the DISTRICT.

SECTION 14. RESIDENCY REQUIREMENTS

FIRE CHIEF must reside within thirty (30) minutes response time to the boundaries of the District. Questions about interpretation of response time are in the Board's reasonable discretion. Failure to do so may constitute a cause for dismissal. Exceptions to this rule may be granted by DISTRICT in writing when, in the opinion of the Board, conditions warrant such exception.

SECTION 15. OUTSIDE EMPLOYMENT

FIRE CHIEF may not carry on any private business or undertaking during the Term, attention to which might affect the time or quality of his work or which casts a discredit upon, or creates embarrassment for DISTRICT. Outside employment must be authorized in advance by the Board in writing.

SECTION 16. ENTIRE AGREEMENT:

This Contract represents the entire agreement between the parties and neither is relying on any oral statements or representations made to the other in executing this Contract. The text hereof shall constitute the entire agreement between the parties. Contemporaneous or later alteration, addition, amendment, change or addition to this Contract shall not be binding upon the parties unless reduced to writing and signed by them. The parties contemplate and understand that this Contract may be modified from time to time by written agreement to reflect changes in DISTRICT policies, ordinances, resolutions or other terms of employment. FIRE CHIEF represents that he has had a reasonable opportunity to review this Contract with counsel of his choice prior to the signing of the Contract. FIRE CHIEF also represents that he has satisfied himself as to the legal effect of this Contract. DISTRICT represents and acknowledges it has performed its due diligence with respect to FIRE CHIEF's qualifications and capabilities to perform the duties and responsibilities of Fire Chief and agrees and acknowledges that as of the Effective Date FIRE CHIEF's qualifications and capabilities are satisfactory for purposes of hiring FIRE CHIEF in this role.

(Exhibit A)

Aptos/La Selva Fire Protection District

FIRE CHIEF

Job Description

FUNCTION:

Reporting directly to the Board of Directors of the District, the Fire Chief will plan, organize, direct, and coordinate all District operations including emergency medical services, fire protection, and support services. The Fire Chief will provide advice and assistance to the Board of Directors in setting policy for the District.

TYPICAL DUTIES:

1. Vision to develop short- and long-range plans and ability to follow through to implementing District goals, objectives, priorities, and procedures.
2. Direct, organize, and supervise departmental activities relating to the mission and goals, emergency medical services, fire protection, and other services.
3. Regularly be responsible for Duty Chief responsibilities including responding to major emergency incidents and personally directing activities, when necessary.
4. Prepare and administer the department's Annual Plan and budget.
5. Represent the District as a community leader in relationships with the public, community groups, and professional organizations.
6. Establish a team environment that is supportive to the mission, vision, and values of the department.
7. Develop productive and team oriented relationships between all employees.
8. Make presentations before the County Board of Supervisors, County Boards and Commissions and coordinates fire department activities with other fire and government agencies.
9. Select, supervise, train, and evaluate staff
10. Pursue a safe and healthy work environment.
11. Direct and participate in the development of new ordinances related to fire protection.
12. Perform other related work as assigned by the Board of Directors.
13. Work closely with the Board President to form Board meeting agendas.
14. Meet routinely with each of the Fire Board Directors.

ESSENTIAL FUNCTIONS:

1. Ability to work emergency incident response overtime.
2. Periodic standing, walking and stooping on pavement, asphalt and uneven terrain.
3. May be required to walk and run while carrying equipment.
4. Occasionally must bend, stoop, kneel or crouch to deal with emergency medical patient needs, operate rescue equipment or carry equipment and/or hose lines into a burning building.

5. Occasionally must crawl within confined spaces and/or within a smoke filled atmosphere to perform fire control, emergency escape or rescue operations.
6. Occasionally must be able to climb ladders, stairs, ramps, scaffolds, poles and the like using feet or legs and/or hands and arms.
7. Occasionally must be able to twist the torso, reach overhead and perform neck and cervical movement to accomplish pulling hose and when performing rescue techniques.
8. Occasionally must have the strength to lift up to 100 lbs. using appropriate lifting and squatting techniques.
9. Must be able to drag an injured victim from a danger area for eventual rescue by a two-member team.
10. As part of a 2-person team must be able to lift a patient or rescue victim.
11. Must be able to extend arms and hands in any direction and be able to seize, hold, grasp, turn and otherwise work with hands; must have the fine finger manipulation equivalent to writing.
12. Must be able to talk and hear with adequate acuity when giving and taking emergency orders and following directions from a supervisor.
13. Must have the visual capacity, depth perception and color vision to drive and follow hazard notification signs.
14. Must be able to work in a variety of environmental situations including: indoors, outdoors, fumes, dust, gases, humidity, odors, ventilation, noise or vibration, extreme heat/cold, and in situations where traffic, chemical spills, fires and biohazards exist.
15. Ability to work within the chain of command system, give and accept constructive criticism, react quickly and calmly in emergency situations.
16. Ability to effectively communicate and maintain positive working relationships with peers, superiors, subordinates, and other public safety personnel and members of the public in a professional and appropriate manner.

MINIMUM QUALIFICATIONS:

Experience:

Twelve (12) years of broad and extensive experience in all phases of emergency medical services, fire protection and support services work including, 1) At least five years in a responsible management capacity (Battalion Chief and higher) or, 2) At least five (5) years in a supervisory capacity with the Aptos/La Selva Fire Protection District

Education:

A bachelor degree (BA/BS) from an accredited college with major course work in fire science, public or business administration or related field is preferred. The Board of Directors may consider significant advanced work experience and accomplishments as an offset to the degree requirement.

Knowledge of:

1. Principals, practices, methods, and techniques of developing a team spirit, organizational communication.
2. Managing and supervising modern emergency medical services, fire prevention, and fire suppression activities.

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3. Capabilities of firefighting apparatus and equipment.
4. Principles and practices of modern fire department administration, risk management, and personnel training.
5. Principles and practices of organization, administration, budgeting, and personnel management.
6. Applicable laws, rules, regulations, ordinances and codes pertaining to fire protection, fire prevention and arson investigation.
7. Grant solicitation processes and strategic planning.

Ability to:

1. Make decisions.
2. Establish and maintain cooperative working relationships with those contacted in the course of work.
3. Communicate clearly and concisely both orally and in writing.
4. Select, supervise, train, and motivate subordinates.

License/Certifications:

Possession of an appropriate and valid California motor vehicle operator's license.

DESIRED QUALIFICATIONS:

Postgraduate college education.

Executive Fire Officers Certification from the National Fire Academy.

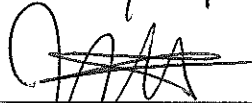
California State Fire Marshal Chief Officer certification. California State Fire Marshal Fire Chief certification.

APPROVED AND AUTHORIZED:

IN WITNESS WHEREOF, this Agreement is executed to be effective as of the date first set forth above.

I have read this Employment Contract. I understand it and agree with it.

Dated 4/11/18, 2018



Joseph "Joe" Foster
DISTRICT President

Dated March 28, 2018



Aaron Lowe
Fire Chief