

EMPLOYMENT AGREEMENT FOR GENERAL MANAGER OF THE FALLEN LEAF LAKE COMMUNITY SERVICES DISTRICT

This Agreement is made as of May 28, 2022 by and between the Fallen Leaf Lake Community Services District, a community services district (hereinafter referred to as “CSD” or “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 Gerren or “General Manager”).

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

In consideration of the mutual covenants and promises of the parties, CSD agrees to employ General Manager “at will” and General Manager agrees to be employed by CSD “at will” as its General Manager pursuant to the following terms and conditions.

1. Term

The District is employing the General Manager 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. General Manager’s Responsibilities

- A. General Manager shall report to the CSD’s Board of Directors or its designee.
- B. General Manager shall perform the duties generally described in the job description attached here to as Exhibit “A”, and other such duties that the District may reasonably assign from

time to time. The General Manager's duties may be reasonably modified at the District's direction from time to time. The General Manager shall abide by all District Policies and Procedures, including those described in the Fallen Leaf Fire Department Standard Operations Manual, as adopted and amended by the District from time to time.

C. Notwithstanding any other provision contained in the Agreement, General Manager 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 General Manager's responsibilities hereunder, and in no case in excess of \$5000.00.
- (3) Sell, transfer, or encumber CSD capital assets (those items with greater than \$5,000.00 current value) without prior Board approval.

3. Year-Round Employment

CSD's fire department has two modes of operations: "Summer Mode" and "Winter Mode". It is understood by and between the parties hereto that the General Manager shall reside at the residence provided by the CSD at Fallen Leaf Lake one month prior to the commencement of the Summer Mode through two weeks following termination of the Fire Season ("Change from Summer Mode to Winter Mode"). The General Manager is entitled to two days off per week. General Manager 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 General Manager’s duties to CSD shall continue.

4. General Manager’s Compensation

The General Manager shall be compensated as follows:

A. For the Term of this Agreement, the General Manager shall be paid a base salary, commencing May 1, 2021 of \$50,000.00 per year, payable on a monthly basis. The Board may, but shall not be required to, consider increases in the base salary of General Manager.

B. The General Manager 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. As part of the review, the Board shall determine whether General Manager shall be entitled to a bonus for the applicable 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 General Manager shall be automatically entitled to receive a bonus for applicable year equal to 5% of his base salary for such year. For 2022, any bonus shall be based on General Manager’s 2021-2022 annual base salary. Bonuses, if any, shall be paid to General Manager promptly following the applicable Labor Day meeting.

C. The General Manager shall be required to live in District provided housing during the Fire Season and the Opening and Shutdown period at 400 Fallen Leaf Road, 2nd floor, Fallen Leaf Lake, CA. The General Manager 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 General Manager resides in housing provided by CSD the CSD will pay all utilities. The CSD recognizes that the presence of the General Manager is a

benefit to the community and therefore there will also be no rental change for CSD provided housing.

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

E. As the GM also serves the District as Fire Chief, the CSD will provide a vehicle to the Fire Chief for use on CSD business as General Manager as well as Fire Chief. CSD shall provide all fuel, maintenance and insurance for said vehicle.

5. Termination of Agreement

This Agreement may be terminated only as follows:

(a) **Resignation:** The General Manager may resign and terminate this Agreement provided that the General Manager 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 General Manager will provide all possible assistance in the selection of a new General Manager during the notice period.

(b) **Mutual Agreement:** The District and General Manager 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 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 General Manager of any material term of this Agreement; provided, that, General Manager 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, General Manager 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 General Manager 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 General Manager'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 General Manager 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 General Manager a monthly sum equal to the difference between the General Manager's salary in effect during the General Manager'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 General Manager shall be made on a monthly basis unless the Board agrees otherwise.

For the purposes of this Agreement, the term "salary" shall include the General Manager's regular monthly base salary. 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 General Manager 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 General Manager, fully compensate the General Manager 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 General Manager'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 General Manager shall immediately terminate this Agreement. In such event, all salary and other monetary amounts due to the General Manager up to the time of death, if any, shall be paid to the General Manager's estate unless otherwise declared in writing by the General Manager or directed by the executor of the General Manager'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:
2602 E 20th 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 General Manager 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

FALLEN LEAF LAKE COMMUNITY SERVICES DISTRICT

By: _____ Date: _____
Gary D. Gerren