

SETTLEMENT AGREEMENT AND GENERAL RELEASE

THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE (hereinafter referred to as "Agreement") is made and entered into by and between GERALD YEARSLEY and the MORONGO VALLEY COMMUNITY SERVICES DISTRICT (hereinafter referred to as "District").

WHEREAS, Gerald Yearsley has been employed by the District since November 2017. He was hired as the Fire Chief and had a verbal agreement with the General Manager of the time, Roxanne Brazell. This verbal agreement stated that he would work four (4) ten (10) hour shifts per week as the Fire Chief.

WHEREAS, Gerald Yearsley worked the four (4) ten (10) hour shifts per week since November of 2017, but has also worked as Duty Officer for the remaining fourteen (14) hours per four (4) days a week. Gerald Yearsley claims that he has not been paid for these extra hours.

WHEREAS, Gerald Yearsley has also worked extra Duty hours on some Fridays (equaling 2,040 hours), some Saturdays (equaling 912 hours), and some Sundays (equaling 264 hours) that he has also claimed to not have been compensated for over the nearly 2.5 years of employment with the District.

WHEREAS, Gerald Yearsley was tasked with working the Director of Operations / General Manager job starting in April 2018 due to the District's prior General Manager, Roxanne Brazell, resigning from the position.

WHEREAS, Gerald Yearsley agreed to combine the two jobs at a pay rate of his current salary as well as half of the General Manager's salary in order to help the District. This position was named "Director of Operations."

WHEREAS, Gerald Yearsley desires to settle fully and finally all differences between himself and the District regarding any and all sums of money that he may be owed from the District in connection with his employment with the District, including, but in no way limited to, those differences of compensation for Duty Officer and Extra Duty hours worked and not paid from the beginning of his employment with the District on November 4, 2017, through May 31, 2020 (hereinafter referred to as "the Dispute").

NOW, THEREFORE, in consideration of the promises herein contained, **IT IS AGREED AS FOLLOWS:**

FIRST: Complete Release.

In return for the consideration provided in Paragraph Eight of this Agreement, Gerald Yearsley does hereby unconditionally release, discharge, and hold the District, including each past, present and future individual members of the District and each and every past, present and

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future officer, employee, agent, attorney, successor, assign and representative of the District, harmless from, and covenant not to sue upon, each and every complaint, action, claim, right, charge, demand, liability, obligation, promise and agreement of any kind of nature that Gerald Yearsley had, have now, or might hereafter claim to have, against the District in connection with the Dispute.

SECOND: Unknown Claims.

Gerald Yearsley and the District acknowledge and agree that, for the consideration stated in this Agreement and as a material inducement to the parties to enter into this Agreement, this Agreement is intended as a full and complete release and discharge of any and all claims that Gerald Yearsley may or might have or had against the District and/or any other party relating, directly or indirectly, to the Dispute, and in accepting the consideration stated in this Agreement, after consulting with his representative or counsel of choice, Gerald Yearsley hereby fully releases and discharges the District and each and every other party, including each past, present and future individual members of the Board of Directors for the District, of and from any and all liability of any nature whatsoever for all damages, general or special, exemplary or punitive, or injury or injuries to Gerald Yearsley, specifically including, but not limited to, all expenses to which Gerald Yearsley may have been put, and also including but not limited to, all consequential damages relating to, directly or indirectly, the Dispute. Gerald Yearsley understands and agrees FURTHER, THAT ALL OF HIS RIGHTS UNDER SECTION 1542 OF THE CALIFORNIA CIVIL CODE ARE HEREBY EXPRESSLY WAIVED. Gerald Yearsley understands that Section 1542 of the California Civil Code provides as follows:

“A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that, if known by him or her, would have materially affect his or her settlement with the debtor or released party.”

Thus, notwithstanding the provisions of Section 1541, and for the purpose of implementing a full and complete release and discharge of the District, Gerald Yearsley expressly acknowledges that this Agreement is intended to include in its effect, without limitation, all claims relating to the Dispute which Gerald Yearsley does not know or suspect to exist in his favor at the time of execution hereof, and that this Agreement contemplates the extinguishment of any such claim or claims.

THIRD: Non-Admission of Liability.

It is understood that this settlement and the entering into of this Agreement by the District is not an admission of any liability whatsoever for any wrongdoing with respect to Gerald Yearsley by the District or by any person, firm, officer, employee, member of the Board of

Gerald Yearsley's Initials

District's Board President Initials

Directors, agent, association, public entity or corporation, but is in compromise of a disputed claim.

FOURTH: Dismissal with Prejudice.

Gerald Yearsley further agrees to dismiss with prejudice any present or future complaint against the District regarding the Dispute. In connection therewith, Gerald Yearsley hereby expressly waives the right to seek relief from such dismissal.

FIFTH: Attorneys' Fees.

It is further agreed for the consideration stated herein that Gerald Yearsley and the District will bear their own costs, expenses and attorneys' fees. This Agreement represents the full and complete release of any and all claims that Gerald Yearsley may or might have, or had, in relation to the Dispute, including, but not limited to, the potential for legal remedies of the full amount owed to him, and Gerald Yearsley, by signing this Agreement, intends to and does hereby release and discharge the District of and from any and all liability of any nature whatsoever for attorneys' fees, costs and expenses, on account thereof, including but not limited to the above-referenced legal remedy and any and all outstanding liens for attorneys' fees, costs and expenses.

SIXTH: Full and Independent Knowledge.

Gerald Yearsley agrees that he has not been influenced to any extent whatsoever in making this Release by any representations or statements regarding this Release, the legal liability thereunder, or any other matters, by any of the other parties who are hereby released, or by any person or persons representing the other parties.

Gerald Yearsley represents and agrees that he understands that this Agreement is the result of extensive bargaining and negotiation with the District's Board of Directors, and Gerald Yearsley hereby declares and represents that he is effecting this settlement and executing this Agreement after having carefully read the Agreement. Gerald Yearsley further represents that he has read and fully understood the final and binding effect of the provisions of this Agreement, that the only promises made to Gerald Yearsley to sign this Agreement are those stated herein, and that Gerald Yearsley is signing this Agreement Voluntarily.

SEVENTH: Indemnification.

- (A) As a further material inducement to the District to enter into this Agreement, Gerald Yearsley hereby agrees to indemnify and hold the District harmless from and against any and all loss, costs, damages, or expenses, including, without limitation, attorneys' fees, incurred by the District, or any of them, arising out of any breach of this Agreement by Gerald Yearsley or the fact that any representation made herein by Gerald Yearsley was false when made.

- (B) Gerald Yearsley further declares that in the event any third party has paid or will pay any expenses arising out of the Dispute, or has any outstanding liens which are known or unknown to Gerald Yearsley at this time, Gerald Yearsley will indemnify and hold harmless the District from all claims or demands for reimbursement by such third party, or lienholder, including providing the District with the legal defense and paying all costs thereof in the event of legal action by any such third party.

EIGHTH: Payment by the District

The District agrees to transmit to Gerald Yearsley a draft in the amount of EIGHTY-TWO THOUSAND FOUR HUNDRED AND TWENTY-FIVE and no/100s DOLLARS (\$82,425.00), made payable to "Gerald Yearsley," on May 31, 2020. Gerald Yearsley acknowledges that the draft is for settlement of all alleged damages relating to the Dispute, including but not limited to pain, suffering, emotional distress, personal injury, attorney's fees, and costs, lost wages, benefits, or punitive and exemplary damages. Gerald Yearsley agrees that these settlement monies are in full, complete and final settlement of any and all claims which Gerald Yearsley may or might have, or had against the District, including but not limited to claims for attorney's fees, or any other claims arising out of the Dispute.

Gerald Yearsley represents and agrees that if the appropriate governmental entity finds any or all of these settlement monies described herein to represent taxable earnings, Gerald Yearsley will be responsible for the payment of such taxes. Gerald Yearsley further represents and agrees to indemnify, secure and hold the District harmless from and against any and all liability or penalties, in any form or relating to the District's payment of such settlement monies without withholding of any taxes.

NINTH: No Filings by Gerald Yearsley.

Gerald Yearsley represents that he has no pending complaints or charges against the District with any local, state or federal agency or court. Gerald Yearsley represents and agrees that he will not file any other complaints or charges against the District with any local, state or federal agency or court at any time hereafter based upon any matter related to the Dispute or based upon any matter arising on or before the date of this Agreement is executed by Gerald Yearsley. Gerald Yearsley further represents and agrees that if any agency or court has assumed or does assume jurisdiction of any such complaint or charge against the District on behalf of Gerald Yearsley, he will request such agency or court to withdraw from the matter. This provision shall not prohibit Gerald Yearsley from seeking redress to enforce his rights under this Agreement.

TENTH: Ownership of Claims.

Gerald Yearsley represents that he has not heretofore assigned or transferred, or purported to assign or transfer, to any person or entity, any claim or any portion thereof, or interest therein. Gerald Yearsley further represents that there are no outstanding lienholders

with any interest in the subject matter of this Agreement or Gerald Yearsley's claims resolved by this Agreement and that, should any person or entity claim an interest in the subject matter of this Agreement or the payments made to Gerald Yearsley by the District as part of this Agreement, that such claims can only be made against Gerald Yearsley. Gerald Yearsley agrees to indemnify and defend any such claims made against the District.

ELEVENTH: Successors.

This Agreement shall be binding upon Gerald Yearsley and upon his heirs, administrators, representatives, executors, and assigns, and shall inure to the benefit of the District and to their heirs, administrators, representatives, executors, successors and assigns.

TWELFTH: Governing Law.

This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed under the laws of the State of California.

THIRTEENTH: Severability.

Should any of the provisions of this Agreement be declared or be determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement.

FOURTEENTH: Notice.

Any notice to be given hereunder shall be in writing and delivered personally or sent by first class mail, postage prepaid, to the addresses set forth below, or to such other address as either party may designate by written notice to the other:

Gerald Yearsley: The Morongo Valley Community Services District
 ATTN: Gerald Yearsley
 11207 Ocotillo Street
 Morongo Valley, CA 92256

The District: The Morongo Valley Community Services District
 ATTN: Board President
 11207 Ocotillo Street
 Morongo Valley, CA 92256

FIFTEENTH: Proper Construction.

(A) The Language of all parts of this Agreement shall in all cases be construed as a whole according to its fair meaning, and not strictly for or against any of the parties.

- (B) As used in this Agreement, the term “or” shall be deemed to include the term “and/or” and the singular or plural number shall be deemed to include the other whenever the context so indicates or requires.
- (C) The Paragraph headings used in this Agreement are intended solely for convenience of reference and shall not in any manner amplify, limit, modify, or otherwise be used in the interpretation of any of the provisions hereof. The location of the paragraph is not intended to express the priority or importance of said paragraph.

SIXTEENTH: Execution of Agreement in Counterparts.

This settlement Agreement and General Release will be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same agreement.

SEVENTEENTH: Waiver.

It is further agreed by the parties that no term or condition of this Agreement shall be deemed to have been waived, nor shall there be any estoppel against the enforcement of any provisions of this Agreement, except by an express written instrument of the party charged with such a waiver or estoppel. No such written waiver shall operate only as to the specific term or condition waived and shall not constitute a waiver of such term or condition for the future or as to any act other than that specifically waived.

EIGHTEENTH: Entire Agreement.

This Agreement sets forth the entire agreement between the parties hereto and fully supersedes any and all prior agreements or understandings between the parties hereto pertaining to the subject matter hereof.

This Agreement cannot be amended, altered, modified or superseded except by a written agreement so stating signed by Gerald Yearsley and the District or their representatives.

**PLEASE READ CAREFULLY. THIS SETTLEMENT AGREEMENT AND
GENERAL RELEASE INCLUDES A RELEASE OF ALL KNOWN AND
UNKNOWN CLAIMS.**

Gerald Yearsley

Dated: _____

Gerald Yearsley

The District

Dated: _____

Gayl Swarat, President