

**EMPLOYMENT AGREEMENT BETWEEN
MENLO PARK FIRE PROTECTION DISTRICT AND
HAROLD SCHAPELHOUMAN**

THIS EMPLOYMENT AGREEMENT (hereafter “Agreement”) is made and entered into by the Menlo Park Fire Protection District (“District”), a California public agency, and Harold Schapelhouman (“Schapelhouman”), an individual.

RECITALS

WHEREAS, Schapelhouman is currently employed by the District as Fire Chief; and

WHEREAS, the parties are mutually committed to ensuring that compensation is fair and reasonable based on the prevailing economic conditions, and subject to review and approval in public;

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

TERMS OF AGREEMENT

1. TERM: This Agreement shall be effective from February 24, 2017 (the “Effective Date”) until June 30, 2018. This Agreement shall supersede and replace the already existing employment agreement between the District and Schapelhouman. The parties may extend or amend this Agreement by mutual agreement, subject to public review and formal adoption by the Board.

2. AT-WILL EMPLOYMENT: Schapelhouman acknowledges that he reports to and serves at the pleasure of the District’s Board of Directors (hereafter “the Board”); provided, however, that the parties shall be subject to any requirements imposed by the Firefighters Procedural Bill of Rights Act, California Government Code sections 3250, et seq. Schapelhouman confirms that he does not have a “property interest” in continued employment.

3. DUTIES: Schapelhouman shall serve as the Fire Chief of the Menlo Park Fire Protection District. Schapelhouman shall have overall responsibility for the day-to-day management and administration of the District, and shall be subject to direction by the Board. Schapelhouman recognizes and agrees that he is an exempt employee, and he is not subject to the overtime requirements of the Fair Labor Standards Act. Schapelhouman shall perform his duties to the best of his ability in accordance with the highest professional and ethical standards. He shall comply with and carry out the District’s rules and regulations, and he shall obey the laws of the United States of America and State of California as they apply to the performance of his duties.

4. NO CONFLICTS: Except as provided herein, Schapelhouman shall devote his full energies, interests, abilities and productive time to his performance as the District’s Fire Chief, and he shall not, without written approval by the President of the Board, render services of any kind for compensation or engage in any activity which would materially interfere with the performance of his duties. Schapelhouman shall not engage in any activity which is or may become a conflict of interest with the District or which might create an incompatibility of office as defined under California law. Schapelhouman shall complete and file financial disclosure statements on an annual basis. Schapelhouman may continue to perform certain per diem work for the College of San Mateo, the Industrial Emergency Council (non Fire District work) and fire service related periodicals.

Schapelhouman may continue to perform limited per diem work for these specified entities so long as Schapelhouman's primary time, efforts and attention are and remain as Chief of the District, and so long as Schapelhouman's work for these other entities does not interfere with his performance or create a conflict with the District's interests.

5. COMPENSATION:

- a. Base Salary:** Beginning on Effective Date, Schapelhouman's base salary shall be set at \$265,000.08, paid at the same intervals and in the same manner as other District employees
- b. Residency Stipend:** If Fire Chief resides within the District boundaries, he shall receive a stipend of \$2,000 per month.

6. PERFORMANCE REVIEWS: Schapelhouman shall participate in periodic performance reviews conducted by the Board, or a subcommittee thereof. Schapelhouman shall cause his performance review to be scheduled at least annually. The parties are committed to the principle that no compensation increases shall be paid unless there has been excellent work performance that merits an increase.

7. BENEFITS: Schapelhouman shall receive those regular health, welfare and fringe benefits during the term of this Agreement as specified in Exhibit A. In addition:

- a. Retiree Medical:** The Fire Chief participates in a Post-Employment Health Plan (PEHP). The District shall contribute \$550 per month into this plan while the Fire Chief is actively employed and will discontinue its contributions upon separation or as required by the plan.
- b. CalPERS:** The Fire Chief shall make the full "Employee Contribution" toward his pension benefit as required by CalPERS. The District shall continue to make its full "Employer Contribution" unless otherwise agreed to in writing.

8. PROFESSIONAL DEVELOPMENT: Subject to the exercise of his reasonable discretion and the budgeting constraints established by the District, Schapelhouman may participate in professional development activities associated with local, state and national fire and emergency services issues and concerns so long as such participation does not interfere with Schapelhouman's primary responsibilities under this Agreement. The Board President shall approve such activities in writing, in advance.

9. REIMBURSEMENT: The District shall reimburse Schapelhouman for reasonable out-of-pocket expenses incurred in connection with the District's business, including travel, food and lodging while away from home, subject to such policies and procedures as the District may from time to time establish for its employees. The District shall also reimburse Schapelhouman for membership fees and dues for membership in professional organizations that relate to Schapelhouman's duties under this Agreement.

10. VEHICLE: The District shall provide Schapelhouman with a suitable District-owned vehicle for Schapelhouman's general business use and to enable Schapelhouman to respond to calls requiring his attention. Schapelhouman shall be entitled to use the vehicle for incidental personal use in the San Francisco Bay Area and Monterey Area. The vehicle shall not be used for personal travel while on leave or for travel for personal purposes outside the Bay Area or Monterey Area.

11. OTHER COMPENSATION PROHIBITED: No compensation of any kind shall be paid to Schapelhouman unless expressly approved by the Board. After the effective date of the Agreement, the District may review Schapelhouman's compensation package; any adjustments to base salary, or other benefits, shall be subject to express approval by the Board, following an opportunity for public review and comment.

12. SEPARATION:

- a. Schapelhouman agrees to give the District at least two (2) months written notice of the effective date of Schapelhouman's resignation or retirement, unless the Board otherwise agrees in writing.
- b. In the event the Board terminates Schapelhouman's employment for such reasons permitted under section 3254(c) of the California Government Code (for example, as a result in a change of administration or an incompatibility of management styles), Schapelhouman may elect to waive any right to appeal and receive a severance benefit of three (3) months (base pay and paid health premiums for three months) in exchange for a general release against the District, including its officials and employees.
- c. After either the District or Schapelhouman have provided notice of termination of this agreement, the District may, at its discretion, modify Schapelhouman's duties for the remainder of Schapelhouman's employment with the District including, but not limited to, limiting Schapelhouman's work to specified assignments. The District also reserves the right to appoint an interim or acting Fire Chief during the period following notice of termination by either the District or Schapelhouman.

13. DISPUTES: Any litigation arising out of this Agreement shall be brought in San Mateo County, California, and shall be resolved in accordance with the laws of the State of California. Schapelhouman waives any removal rights he might have under Code of Civil Procedure Section 394. In any action to interpret or enforce the terms of this Agreement or to adjudicate any alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, no party shall be entitled to recover attorneys' fees or costs in addition to any other relief to which such party may be entitled.

GENERAL

14. NOTICES. Notices pursuant to this Agreement shall be in writing given by deposit in the United States Postal Service, postage prepaid, delivered personally, or by overnight or other courier delivery services. All notices shall be effective as of the date of the sender's postage receipt, or immediately upon receipt if delivered personally or by overnight or other courier delivery services.

Notices to the District shall be addressed as follows:

Menlo Park Fire Protection District
170 Middlefield Road
Menlo Park, CA 94025
ATTN: Board of Directors, President

or to such other address or location as the District directs.

Notices to Schapelhouman shall be addressed as follows:

Harold Schapelhouman
170 Middlefield Road
Menlo Park, CA 94025

or to such other address or location as Schapelhouman directs in writing.

15. BONDS. The District shall bear the full cost of bond premiums required to conduct all District related business.

16. SEVERABILITY. In the event that any provision of this Agreement is finally held or determined to be illegal or void by a court having jurisdiction over the parties, the remainder of the Agreement shall remain in full force and effect unless the parts found to be void are wholly inseparable from the remaining portion of the Agreement.

17. PARITY IN CONSTRUING AGREEMENT. Both parties have had sufficient opportunity to review this Agreement and to consult with legal counsel before executing it. This Agreement shall therefore be construed in accordance with its plain meaning and not in favor of or against any party.

18. HEADINGS AND SECTION DIVISIONS. Headings and section divisions in this Agreement are for ease of reference and are not intended to define, interpret or limit the content of each numbered paragraph or section.

19. SOLE AGREEMENT. The District and Schapelhouman acknowledge that this Agreement constitutes the sole and entire agreement between them relating to the subject matter of this Agreement, and that there are no other representations, agreements, arrangements or understandings, either written or oral, which are not fully expressed herein. The District and Schapelhouman further agree that this Agreement may only be modified by the District Board and Schapelhouman, and any modifications shall be in writing.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date indicated below commencing the initial Term as provided in this Agreement.

-- MENLO PARK FIRE PROTECTION DISTRICT --

Dated: _____, 2017

By _____
Peter Carpenter
President of the District Board of Directors
Menlo Park Fire Protection District

-- FIRE CHIEF --

Dated: _____, 2017

By _____
Harold Schapelhouman
Fire Chief
Menlo Park Fire Protection District

Dated: _____, 2017

Approved as to form:

Lauren E. Quint, Esq.

Exhibit A

The current benefits and employer costs for calendar year 2016 are listed below.

Health & Welfare	Employer Cost Per Month
Use of Dept. Vehicle	\$91/mo
Health	\$1650/mo
Dental	\$122/mo
Life Insurance	\$239/yr
PEMCHA	\$125/mo
PEHP	\$550/mo
PTO/Annual Leave	372 hours annually