

# Olivehurst Public Utility District



## Agenda Item Staff Report

Meeting Date: June 20, 2019

### Item description/summary:

**Consider approval of the MOU between OPUD and the Fire Department Association (Representing Olivehurst Firefighters) see attached.** This item has been discussed at many committees and Board meetings. OPUD legal counsel has reviewed and made all the legal edits to this MOU that will update it to the current standards with other labor MOU's the District has. The Board and Association completed negotiations earlier in the year and with the MOU legal update it is ready for Board approval.

### Fiscal Analysis:

This MOU was considered in the 2019/2020 budget.

### Employee Feedback

Positive

### Sample Motion:

Move to approve the MOU between OPUD and the Fire Department Association.

Prepared by:

John Tillotson, P.E., General Manager

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**OLIVEHURST PUBLIC UTILITY DISTRICT**

**AND**

**OLIVEHURST PUBLIC UTILITY DISTRICT  
FIRE DEPARTMENT ASSOCIATION**

**January 1, 2019 through December 31, 2020**

OLIVEHURST PUBLIC UTILITY DISTRICT  
ASSOCIATION

THIS AGREEMENT made and entered into this 1st day of January, 2019, and effective as of the initial date of the Term hereof, by and between OLIVEHURST PUBLIC UTILITY DISTRICT, hereinafter referred to as the District, and Olivehurst Public Utility District Fire Department Association; hereafter referred to as the Union, on behalf of the Association. The agreement relates and applies **to all** employees within the unit.

**ARTICLE I – UNIT OF REPRESENTATION AND RECOGNITION**

The Association is a duly created and recognized Unit of Representation within the employee ranks of the District. Union is a recognized employee representative of employees in the Association of Representation. Union has been accorded exclusive or majority representation status.

For purposes of this Agreement, the Unit is comprised of the following positions:

- Firefighter
- Engineer
- Captain

**ARTICLE II – DUES DEDUCTIONS**

Section 1. Dues Deductions – During the term of this Agreement, the District shall deduct from the first pay check of each month the monthly Union Dues (But not assessments or fines), provided earnings after legal deductions are sufficient to cover such monthly Union dues (but not assessment or fines), of each employee who has authorized dues deductions as certified by the Union. All amounts deducted by the District shall be remitted by the District to the Financial Secretary, Olivehurst Public Utility District Fire Department Association. The District shall also furnish to the Union, with each remittance, a list showing the name and Social Security Number of each employee whose monthly dues are included in the remittance and the amount thereof.

## **ARTICLE III – SHIFTS, HOURS, OVERTIME AND WORKING RULES**

### **Section 1. Shifts:**

- (a) The District and Association agree to continue the current shift schedule for Firefighters by A, B, & C shifts working two 24 hour shifts (48 hours total) on and four 24 hour shifts (96 hours total) off and D shift working Monday through Thursday from 0800 to 1600 and Friday from 0800-0800. The scheduled start time will begin at 0800.
- (b) The D shift Firefighter's schedule is subject to change depending upon the needs of the Department. In order to lessen the burdens on the budget, the D shift Firefighter will work all vacation days and sick days taken by the other shift Firefighters. Furthermore, all Fair Labor Standards Act (FLSA) for Firefighters will apply (e.g. hours worked and overtime provisions, etc.) unless modified by other provisions in this MOU. The District also reserves the right to review this shift schedule on a periodic basis in order to address any potential inequities or problems. Any modifications to this schedule are subject to meet and confer.

**Section 2. Fair Labor Standards Act (FLSA):** The District shall comply with the Fair Labor Standards Act (FLSA) and agrees to meet with Association in order to discuss sections of the Act which affect the agreed upon wages, hours, and other terms and conditions of employment.

### **Section 3. Overtime Compensation:**

- (a) Firefighters will be on a Fair Labor Standards Act (FLSA) 14-day work schedule and be paid every two (2) weeks. Overtime hours worked will be compensated at one and one-half (1 ½) times the employee's straight time rate of pay.

- (b) The Fire Chief shall be responsible for preparing and assigning the normal work schedule for Department personnel. In addition to overtime, as required by FLSA, Firefighters shall be compensated at their overtime rate for all hours worked that is not part of their normal schedule (see Article VI, Section 6.1).
- (c) It is understood that leave time taken by an employee shall continue to be counted as time worked for FLSA purposes.
- (d) Incidental overtime of less than fifteen (15) minutes in a non-recurrent extension of the work day/shift is non-compensable in any form.
- (e) Employees shall be compensated for one (1) full hour when working beyond the incidental overtime period (Article V, 5.1D) as a result of a dispatched incident.
- (f) Employees shall be compensated for two (2) hours call back when called in for duties other than emergency calls. This includes covering for other departments in the District (examples include, but not limited to, changing cylinders at the plant, instructing classes, investigations, inspections, administrative meetings, etc.), as approved by the Chief.
- (g) C.T.O. – Compensatory Time Off – Employees shall have the option of overtime cash payment or C.T.O., all of which shall be at the time and one-half (1 ½) rate. The maximum accrual rate for C.T.O. shall be 48 hours effective the last day of the last pay period payable in December of each year. Timecards not specified will be paid overtime cash pay. It is also agreed that in each section, only one employee in such section may use C.T.O. at the same time, unless approved by the General Manager.

Section 4. Overtime Scheduling: The District agrees to a rotating list for scheduling personnel for overtime shifts. This rotating list shall be maintained by the Fire Chief or designee. There shall be a separate list for “Volunteer” and “Full-Time” overtime. The District agrees to meet and confer prior to changing this policy.

Section 5. Court Appearances: Fire personnel will be compensated for required, job-related off-duty court appearances at one and one-half (1 ½) times the hourly rate of pay, for a period of four (4) hours or for hours actually worked, whichever is greater.

Section 6. Staffing Errors: An employee who reports to work on an overtime shift and is released from duty because of a staffing error will be compensated for four (4) hours at one and one-half (1 ½) times the hourly rate of pay.

Section 7. Scheduled Off-Duty Training: Fire personnel will be compensated for scheduled, off-duty training that is required by the Department and approved by the Fire Chief. Fire personnel will be compensated for a period of two (2) hours or for hours actually in attendance, whichever is greater.

Section 8. Strike Team Assignments: Fire personnel will be compensated at the current State negotiated pay rate OR the District current negotiated pay rate, whichever is higher, portal-to-portal while on a Strike Team Assignment.

#### **ARTICLE IV – HOLIDAYS**

Section 1. Holiday: Shift employees shall accrue a total of 120 hours per year. The employee will accrue 4.62 hours per pay period of holiday time. Holiday pay does NOT carry over from year-to-year and may NOT be cashed out upon termination. If a holiday falls on a Firefighter's shift, there is no additional time-off or compensation for working the holiday shift.

## ARTICLE V – WAGES

### Section 1. Salary:

- (a) The pay scale in is provided in Exhibit A to this agreement.
- (b) Step increase shall be based upon satisfactory performance. Employees shall be evaluated on an Employee Performance Report on each employee's anniversary date. Each employee receiving a satisfactory Employee Performance Report shall, upon approval of the Board of Directors, receive a merit increase in salary and shall be advanced to the next higher step of such employee's salary range.

Section 2. COLA: Effective July 1, 2018, or upon ratification of this agreement, whichever occurs sooner a cost of living adjustment equal to the CPI, All Urban Consumers, Western States, BC, or its successor, using the index for the period ending the preceding May 31. The amount of adjustment shall further be limited to not more than **3.5%** and not less than **0.0%**. Additional COLA, similarly computed, will be effective on July 1, 2019 and July 1, 2020.

### Section 3. Performance Review/Merit Increase:

- (a) Merit increases shall be based upon satisfactory performance. Employees shall be evaluated on an Employee Performance Report (EPR) on each employee's anniversary date until an employee reaches the maximum salary step for such employee's salary range.
- (b) Each employee shall, upon receipt of a satisfactory EPR and the approval of the Board of Directors, receive a merit increase in salary and shall be advanced to the next higher step of the employee's salary range.

- (c) If the salary increase is withheld because of a below-standard or unsatisfactory evaluation, and the employee remains employed, second consideration must be given within six (6) months of the anniversary date and at least every six (6) month period thereafter or until the employee receives the merit increase or is terminated.
  
- (d) An employee who is denied a step increase shall have the right to grieve such denial with his/her immediate supervisor as the first step. If not satisfied at the first step, he/she may grieve the supervisor's denial to the General Manager.
  - 1. The scoring within the EPR reflects the direct observations of the supervisor preparing the EPR and such scores shall not, in and of themselves, be subject to the Grievance Procedure;
  
  - 2. At any level of this procedure, the employee may request representation.
  
- (e) The District agrees to meet with the Association in order to review and propose changes to the existing employee evaluation system.

## **ARTICLE VI – VACATIONS**

### **Section 1. Firefighter Leave:**

- (a) Employees shall accrue 224 hours of vacation each year. New hires shall not accrue vacation until they have passed probation. Once a new hire passes probation the new hire will be awarded the prorated share of vacation they would have accrued had they not been excluded by probation. The maximum accrual shall be 280 hours, after which accrual shall stop until the employee has used vacation time under accrual cap.
  
- (b) In the event of termination of the employee, and at the end of each calendar year, all unused Firefighter Leave credits expire. Firefighter Leave credit does NOT carry over



from year-to-year AND Firefighter Leave credit may NOT be cashed out upon termination.

Section 2. Firefighter Leave Scheduling Procedure:

(a) The following shall govern when an employee may take time off on Firefighter Leave for vacation purposes:

1. An employee wishing to use accrued Firefighter Leave time must request leave from the Fire Chief in writing, ten (10) days in advance. Short term leaves (less than one week) may be approved by the Chief with less notice, subject to departmental workload and scheduling needs. To the extent possible, an employee's preference for leave will be honored. Leaves may be taken at any time during the year, subject to departmental workload and scheduling needs. Firefighter Leave will be authorized, in advance, by the Fire Chief in accordance with employees' requests, provided it is consistent with the needs of the Department and the District.
2. To the extent possible, requests will be honored in the order requests are received. If conflicting requests are submitted simultaneously, the Chief will make a decision based on the Department needs.
3. Employees will not be granted leaves longer than five (5) working days unless it is determined by the Fire Chief that the employee's extended absence will not conflict with work schedules. Absences longer than five (5) working days for personnel must be approved by the General Manager.
4. The Fire Chief will not authorize requests for leaving, including his/her own, which conflict with staffing requirements of the Department. Such conflicts include, but are not limited to, inadequate employees to cover shifts and workloads, inability to cover the vacationing employee's workload, and failure to meet staffing requirements imposed by regulatory authorities.

(b) The parties agree that as Department staff levels increase, it may be necessary to increase the number of employees who can be granted leave for vacation purposes at the same time. The parties agree to meet and confer at such time that the staff increases make such a change feasible.

Section 3. Shift Trades: Each employee may be allowed to trade time for shift(s) for which they are able to secure another qualified employee to work in their place, provided that the substitution is approved by the Fire Chief and does not impose any fiscal impact to the District.

## **ARTICLE VII – SICK LEAVE**

Section 1. Employees shall earn and be entitled to twelve (12) hours per month, totaling six (6) days (or 144 hours) per year of sick leave with pay per year worked.

Section 2. Unused sick leave shall be cumulative from year to year. The maximum accrual for sick leave shall be 1,000-hours.

Section 3. For an absence in excess of 3 days, the District may require the employee to file a physician's certificate or a personal affidavit clearing the employee to return to work. Securing of the certificate shall be at the employee's expense, unless the District requires such certificate from a physician of the District's, rather than the employee's, choosing. An employee absent for 30 days or more on sick leave or other authorized medical leave may be required to file a physical fitness report every 30 days, certified by a physician of the District's choice. If a physician is chosen by the District, the District will pay the physician's fees.

Section 4. As an additional recognition for employees who spend a working career with the District and who leave the District's employ in good standing, upon retirement or death of an employee (or in the instance of death, the employee's estate) who is at least 53 years of age and who has at least 15 years of continuous service for the District shall be paid a sum equal to 25% of his/her accrued sick leave. Such payment shall be computed on the basis of the employee's regular hourly wage at the time of such retirement or death. Additional recognition payment as described in this section shall

not be paid for an employee who is terminated for just cause.

Section 5. If an employee is injured on the job, for the day of injury only, time off required for medical attention or recuperation ordered by the employee's physician, shall not be charged to the employee's accrued time.

Section 6. Sick leave shall not accrue during any period of unpaid leave, including leave taken pursuant to the Workers' Compensation laws. If unpaid leave is supplemented with paid sick leave or vacation leave, then accruals of sick leave and vacation shall apply to the extent of use of such paid leave.

### **ARTICLE VIII – BEREAVEMENT LEAVE**

Section 1. Death of Member in Employee's Immediate Family – The immediate family is defined as a person related by blood or marriage who is a husband, wife, son, daughter, sister, brother, mother, father, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister(brother)-in-law, or son(daughter)-in-law. Each such absence shall be charged to bereavement leave and shall not exceed 3 days, or 5 days for out-of-state death. If such absence requires additional time away from work, the employee has the option to charge additional leave time with pay to his/her sick leave or annual vacation leave, to the extent that such leave time has been accumulated by the employee.

### **ARTICLE IX – BASIS FOR LAYOFF AND SEVERANCE PAY**

Section 1. In the event of reduction of force for any reason, employees so laid off shall be laid off in accordance with seniority in the classification to which their positions are allocated or in higher classifications. **Prior to any layoff of full-time benefitted employees, all seasonal, temporary and part-time employees shall be let go first, in the classification proposed for layoff.**

Section 2. No regular employee shall be discharged from the District without being given at least two (2) weeks' notice and severance pay, nor shall such employee leave his/her employment without giving a similar notice to the District.

Section 3. In the event of reduction of force for any reason, employees who may be laid off shall be afforded opportunities to move to other available, qualified positions within the District. If previous position(s) become available within 36 months of separation, the laid off employee(s) will be afforded the opportunity for immediate rehire, bypassing the District hiring process, so long as the employee has maintained required education, certifications and physical abilities.

Section 4. This Article will not apply to an employee who is discharged for just cause.

## **ARTICLE X – HEALTH & WELFARE, PENSIONED HEALTH & WELFARE & PENSION**

### Section 1. Health & Welfare:

- (a) Effective July 1, 2018, or upon ratification of this agreement, whichever occurs later, the District shall contribute the following amounts monthly toward the medical, dental and vision insurance premium cost for all eligible employees enrolled in the OPUD-sponsored medical plan. **If this amount is increased for any management employee, then it shall be increase for this unit as well.**

Employee Only **\$1,500**

Employee plus one dependent **\$1,600**

Employee plus two or more dependents **\$2,000**

- (b) Health and Welfare insurance shall be provided through a carrier or carriers chosen by the District.
- (c) Employees who do not use all of the above maximum coverage amounts shall receive NO additional compensation as a result thereof.
- (d) Employees choosing to opt out of the District's Group Health Plan must furnish evidence of equivalent coverage for themselves and all dependents from another source, and only then will receive \$600/mo. in compensation. Any employee opting out will be subject to the rules of the District's insurance plan should he/she seek to re-enter the Plan. For an employee opting out of medical, but wishing to retain dental and/or vision coverage, the cost of the

coverage shall be subtracted from the **\$600. If this amount is increased for any management employee, then it shall be increase for this unit as well.**

Section 2. Pension: District shall pay into an employee 457 deferred compensation fund 12% of the employee's base hourly rate. Additionally, the District will match up to **2.5%, in total**, of any employee contribution. The investments available under the deferred compensation fund shall be designated by the employees and the District from time to time by majority vote of the employees, reasonably approved by the District. The terms of the Deferred Compensation Plan shall be consistent with the requirements of law.

Section 3. Life Insurance: Subject to minimum participation restriction implemented by the insurance broker(s), the District will provide \$50,000 in life insurance for each employee. The cost of the premiums will be the responsibility of the District. There is no Opt Out incentive associated with an employee not wishing to use this benefit. If any aspect of the documentation process results in an impediment to coverage, the District will attempt to resolve the issue and request meet and confer as necessary.

## **ARTICLE XI – UNIFORM COSTS**

### Section 1. Uniforms:

- (a) The District agrees to provide uniforms, in the amount of \$500.00, annually for all Association members. All uniforms purchased shall comply with the most current regulations and specifications as identified in the Department's Policies and Procedures Manual.
- (b) Safety boots will be purchased by the Department and may be retained by the Department upon separation of service.
- (c) Uniform nametag and shirt collar insignias will be provided to each employee upon initial hire. Shirt collar insignias will also be provided upon promotion to another rank or position.

- (d) Uniform badges will be issued by the Department. Any other badge ordered/purchased by fire personnel must be of a style approved by the Fire Chief. Two badges will be provided to each employee upon initial hire or promotion. One badge is to be used with the employee's Class B shirt and one badge with the Class B jacket or one badge used with the Class A shirt and one badge with the Class A jacket.
- (e) The District agrees to meet with Association members to review the current uniform specifications.

Section 2. Uniforms – Class A: The District will provide each full-time employee a one-time payment of \$350.00 to purchase a Class A uniform.

#### **ARTICLE XI – LONGEVITY WAGE PLAN**

Section 1. The longevity rate per years of service will be as follows:

- (a) 5 years of service = 2% of base wage
- (b) 10 years of service = 4% of base wage
- (c) 15 years of service = 6% of base wage
- (d) 20 years of service = 8% of base wage
- (e) 25 years of service = 10% of base wage
- (f) 30 years of service = 12% of base wage
- (g) 35 years of service = 14% of base wages
- (h) 40 years of service = 16% of base wages

#### **ARTICLE XII – MANAGEMENT RIGHTS**

Section 1. Retention of Rights. The Union recognizes that the District has, and will continue to retain in all respects, whether exercised or not, the unilateral and exclusive right to operate, administer, and manage its public services and its work force performing those services.

Section 2. Exclusive Rights. The exclusive rights of the District shall include, but not be limited to, the right to determine the organization of District governance and the purpose and mission of its constituent agencies; to set standards and levels of service to be offered to the public, and through its management officials, to exercise control and discretion over its organization and operations; to establish and enforce administrative regulations and work rules in addition to and not inconsistent with the specific provisions of this Memorandum of Understanding; to direct its employees; to take disciplinary action; to lay off its employees; to determine the procedures and standards of selection for employment and promotions; to determine whether goods or services shall be purchased or contracted for; to determine the methods, means and personnel by which the District's services are to be provided, purchased or contracted including the right to schedule and assign work and overtime; and to otherwise act in the interest of efficient service to the District and the public. The District retains its rights to assign and place volunteers in accordance with District policy. To the extent required by law, the District agrees to meet and confer on the impact of the exercise of any such rights upon represented employees prior to implementation.

Section 3. Contracting Out. The District agrees to meet and confer, upon request of the Union, over the impact to Union members of any decision by the District to contract-out bargaining unit work to a non-District enterprise or agency.

### **ARTICLE XIII – NON-PRECEDENCE**

The waiver of any breach, term, or condition of this Memorandum of Understanding by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

### **ARTICLE XIV – ZIPPER CLAUSE, EFFECTIVE DATE AND TERMINATION DATE**

**Except as otherwise specifically provided herein, this Memorandum of Understanding fully and completely incorporates the understanding of the parties hereto and constitutes the sole and entire agreement between the parties on any and all matters subject to negotiations. Neither party shall, during the term of this Memorandum of Understanding, make demands to the other with respect to any matter; provided that nothing herein shall prohibit the parties from changing the terms of this Memorandum of Understanding by mutual agreement.**

## **ARTICLE XV– MISCELLANEOUS**

**Section 1. Fitness Evaluations (Wellness):** The District and Association agree to work cooperatively during the term of this MOU to develop a long-term wellness program for safety personnel.

### **Section 2. Fire Job Classification:**

- (a) The District recognizes that the Association has a vital interest in the content of fire job specifications, including minimum qualifications and promotional patterns, for the Fire Department personnel represented by the Association.
  
- (b) The District agrees to notify the Association anytime the District proposes to modify job classifications. The District agrees to meet and confer with the Association over such proposed changes, if the Association requests such negotiations within two (2) weeks of notification by the District.

On its own initiative, the Association may, at any time, notify the District General Manager that it requests to meet and confer with the District over the Association's



## **SIGNATURE CLAUSE**

The terms and conditions of this Memorandum of Understanding are executed on the 1<sup>st</sup> day of January, by the Association representatives, whose signatures appear below, on behalf of their respective organizations.

This MOU shall be effective upon ratification by the Olivehurst Public Utility District Fire Department Association and The Olivehurst Public Utility District, and shall expire on December 31, 2020.

**Olivehurst Public Utility District**

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John Tillotson, General Manager

**Olivehurst Public Utility District  
Board of Directors**

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Mary Jane Griego, Board President

**Olivehurst Public Utility District  
Fire Department Association**

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Association Representative

## EXHIBIT A

### January 1, 2019 PAY SCALE

POSITION	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
Battalion Chief	\$29.81	\$30.99	\$32.22	\$33.51	
Firefighter	\$12.00	\$12.60	\$13.23	\$13.89	\$14.58
Engineer	\$14.40	\$15.12	\$15.88	\$16.67	\$17.50
Captain	\$17.28	\$18.14	\$19.05	\$20.00	\$21.00