



September 22, 2017

**TO:** LOCSO Board of Directors

**FROM:** Roy A. Hanley, General Counsel

**SUBJECT:** **Agenda Item 11I – 10/12/2017 Board Meeting**  
Approve Revised Contract of Employment for Reserve Firefighters

**President**  
Jon-Erik G. Storm

**Vice President**  
Vicki L. Milledge

**Directors**  
Charles L. Cesena  
Marshall E. Ochylski  
Louis G. Tornatzky

**General Manager**  
Renee Osborne

**District Accountant**  
Robert Stilts, CPA

**Unit Chief**  
Scott M. Jalbert

**Battalion Chief**  
Greg Alex

**Mailing Address:**  
P.O. Box 6064  
Los Osos, CA 93412

**Offices:**  
2122 9<sup>th</sup> Street, Suite 102  
Los Osos, CA 93402

**Phone:** 805/528-9370  
**FAX:** 805/528-9377

[www.lososocsd.org](http://www.lososocsd.org)

### DESCRIPTION

The District contracts with CAL FIRE who hires and trains Reserve Firefighters for the District. An employment contract, among other personnel matters, is executed during and after the probation period. Staff is recommending review of minor changes to the contract for use in 2017 and thereafter.

### SUMMARY OF STAFF RECOMMENDATION

Staff is requesting approval of the contract used by CAL FIRE for the Reserve Firefighters employed through the District. There are minor additions to the existing contract and CAL FIRE is currently recruiting a new set of Reserve Firefighters and would like to implement this revised contract. Staff is requesting that the Board authorize the General Manager to make any future non-substantial changes, such as date changes, etc. Any substantial changes or modification to the existing contract would be brought back to the Board for approval.

### STAFF RECOMMENDATION

Staff recommends that the Board adopt the following motion:

***Motion: I move that the Board approve the revised Contract of Employment for Reserve Firefighters and authorize the General Manager to update any future non-substantial changes to the contract, as needed.***

### DISCUSSION

The Reserve Firefighters work closely with CAL FIRE and are under District employment. A Reserve Firefighter contract is executed as part of the final hiring requirements. It has been some time since the Board has reviewed the employment contract and there are some minor revisions, which are indicated in the redline version, that CAL FIRE Staff desires to update or include. Staff is requesting that the Board authorize the General Manager to make any future non-substantial changes, such as date changes, etc. Any substantial changes or modification to the existing contract would be brought back to the Board for approval.

### FINANCIAL IMPACT

None.

Attachments: Proposed Contract

CONTRACT OF EMPLOYMENT FOR LOS OSOS COMMUNITY SERVICES DISTRICT RESERVE FIREFIGHTER

THIS CONTRACT is entered into this 1<sup>st</sup> day of January July in 2017 by and between the Los Osos Community Service District (hereinafter referred to as "District"), and Employee Name, a contract employee (hereinafter referred to as "Contract Employee").

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WITNESSETH:

WHEREAS, the Los Osos Community Service District requires a skilled individual to perform specialized services; and

WHEREAS, the District contracts with the California Department of Forestry and Fire Protection – San Luis Obispo County Fire Department (hereinafter referred to as "CAL FIRE-SLO") for fire, medical and emergency services; and

WHEREAS, Contract Employee meets the minimum requirements necessary to perform such services for the District;

NOW, THEREFORE, the parties do mutually agree as follows:

1. Scope of Service. Pursuant to this Contract, Contract Employee shall provide to District the following services: firefighting, rescue, medical, fire prevention, maintenance and related emergency and non-emergency services as outlined in the Reserve Fire Fighter job description.

Contract Employee shall perform said services under the direct supervision and control of the Chief of CAL FIRE-SLO, or his/her designee.

2. Employment Status. Contract Employee understands and agrees that he/she is not, and shall not, be eligible for membership in, or any benefits from any District or CAL FIRE-SLO retirement program unless prescribed by law or code, or for paid holidays, vacation, sick leave, or other leave, with or without pay, or any other job benefits accruable to an employee in the regular service of the District, except for Worker's Compensation Insurance coverage and limited medical insurance coverage.

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Contract Employee understands and agrees that the compensation received herein is negotiated for services rendered by Contract Employee. He or she:

- (a) Is not entitled to be paid a prevailing wage;
- (b) Is not entitled to be paid compensation comparable to a regular District or CAL FIRE-SLO employee performing similar work;
- (c) Will not be substituted for a regular District or CAL FIRE-SLO employee; and,
- (d) The compensation received herein is negotiated for services rendered by Contract Employee.

Contract Employee understands and agrees that the terms of his/her employment is governed only by this Contract and that no right of regular employment is created hereby, that he/she does not hold a position in any department or office of the District or CAL FIRE-SLO, and that his/her service to the District under this Contract is as a Contract Employee. No term of employment is implied, and Contract Employee understands that his/her employment is at the will of the District and may be terminated at any time as provided in Section 6, and without right of appeal except as otherwise required by California law.

4. ~~Uniform & Equipment Policy. Contract Employee understands and agrees that the LOCSD will provide all necessary uniforms and equipment, however if Contract Employee terminates employment during the probation period (12 months from date of Shadow Shifts and successful completion of Task Book), the Contract Employee will be held personally responsible for all items that are not returned or items that have experienced wear and tear. This will include, but is not limited to, monetary reimbursement to the LOCSD for the cost of said uniforms and equipment. Reference Section 3040 UNIFORMS of the LOCSD Personnel Handbook Policy for further information.~~

3. Warranty of Contract Employee. Contract Employee warrants that after he/she is properly trained, certified, or licensed under the laws and regulations of the State of California, the District, CAL FIRE-SLO and SLO County Emergency Medical Services Agency (EMSA) to provide the services herein agreed to. He/she will maintain such and will notify CAL FIRE-SLO immediately of non-compliance. The Contract Employee further agrees to maintain primary residence within the boundaries served by the CAL FIRE-SLO to ensure emergency prompt response time.

4. Compensation. District shall pay to Contract Employee as compensation in full for all services performed by Contract Employee pursuant to this Contract, the starting sum of \$10.50 per hour, or the amount as specified as the required Minimum Wage, which ever is greater. ~~Said compensation shall be paid on a fourteen day basis. The salaries and wages of all District employees shall be paid every two weeks, on every other Friday, for the two workweeks ending five days earlier. In the event a payday falls on one of the District's observed holidays, the immediately previous working day shall become the payday.~~ During the effective term of this Contract, the hours in which Contract Employee shall devote to the performance of the services enumerated herein are as follows:

(a) The Contract Employee is required to work a minimum of 24 scheduled hours during each month with hours scheduled in 12 or 24 hour shifts. The Contract Employee shall attend drills and respond to emergencies that do not coincide with designated shifts, and may be required to attend mandatory events as designated by the Chief, unless prior approval of absence is obtained. District is not required to provide Contract Employee any specific number of working hours, and the hours Contract Employee is assigned to work will be at the discretion of the District.

(b) According to the Fair Labor Standards Act, Firefighters working in excess of the 53 40 hours in a 7 day workweek shall be paid one and one half times the regular rate of pay for each hour worked in excess of 40 hours to provide such additional services.

(c) District shall furnish Disability Income and Accidental Death Insurance in the amount of at least \$50,000 to Contract Employee under the California State Firefighters Employee Welfare Benefits Corporation plan as offered by the California State Firefighters Association or equivalent to contract employees for loss, injury, or death sustained while performing an activity of the District.

(d) Contract Employee shall receive an additional five percent (5%) pay step over the base hourly rate of pay when the Chief of CAL FIRE-SLO or his/her designee approves the increase based on proof of each specific qualification as follows:

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1. Local certification **as Emergency Medical Technician 1** by the County of San Luis Obispo Emergency Medical Services Authority. **The District will be financially responsible for any associated local and state licensing fees,** as this is an alternate condition of employment for medical certification.
2. **Certification as a Firefighter 1 by the State Fire Marshal** obtained by graduation of an accredited fire academy or by a self-paced program approved by a Chief.
3. **Certification and maintenance of required annual proficiency skills for Rescue Watercraft Operator as indicated within the CAL FIRE-SLO RWC**  
– Standard Operating Guideline.

(e) **Contract Employees shall receive an additional ten percent (10%) pay step** over the base hourly rate of pay when the Chief of CAL FIRE-SLO or his/her designee approves the increase based on proof of each specified qualification as follows:

1. **Qualification as a Driver/Operator** by the Chief of CAL FIRE-SLO or his/her designee.
2. Local accreditation to perform as a **Paramedic** by the County of San Luis Obispo Emergency Medical Services Authority. Accredited Paramedics are required to maintain Paramedic employment, licensing and accreditation through an alternate approved San Luis Obispo County Paramedic provider, and it will not be the physical or financial responsibility of CAL FIRE-SLO or the District to maintain the Contract Employee's accreditation and/or associated licensing fees.

(f) The **Contract Employee shall appropriately complete all hours worked on a timecard at the end of each shift.** Additionally, the Contract Employee **shall submit the timecard before the due date** for each pay period.

(g) Contract Employee **shall not work more than 950 hours in each fiscal year** (July 1 to June 30).

5. Term of Contract. This Contract shall be effective July 1, 2017, unless terminated earlier as provided herein, and shall terminate on December 31, 2017. Notwithstanding the foregoing sentence, this Contract may be terminated prior to its expiration in accordance with Section 6.

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6. Termination of Contract for Convenience. The District, CAL FIRE-SLO, or the Contract **Employee may terminate this Contract at any time without cause by giving to the other party fifteen (15) calendar days written notice** of such termination, specifying the effective date of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. Contract Employee shall be paid for all work satisfactorily completed prior to the effective date of such termination.

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7. District Property. **District shall provide uniforms, radios, and personal protective equipment, pursuant to policies established by the Chief of CAL FIRE-SLO.** Contract Employee agrees to

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properly care for all issued property including uniforms and to **immediately return** said property upon demand of the District.

8. Entire Agreement and Modification. This Contract constitutes the entire understanding of the parties hereto. This Contract supersedes all previous contracts between the parties, and Contract Employee shall be entitled to no other benefits than those specified herein. No changes, amendments, or alterations shall be effective unless in writing and approved by Board action taken at a regularly scheduled meeting. Contract Employee specifically acknowledges that in entering into and executing this Contract, Contract Employee relies solely upon the provisions contained in this Contract and no other oral or written understandings that Contract Employee may have regarding his/her employment.

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9. Non-Assignment of Contract. This Contract is intended to secure the individual service of the Contract Employee and thus Contract Employee shall not assign, transfer, delegate, or sublet this Contract or any interest therein without the prior written consent of District. Any such assignment, transfer, delegation or subletting shall be considered null and void.

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10. Covenant. This Contract has been executed and delivered in the State of California, and the validity, enforceability, and interpretation of any of the clauses of this Contract shall be determined and governed by the laws of the State of California. All duties and obligations of the parties created hereunder are performable in San Luis Obispo County, and such County shall be that venue for any action, or proceeding that may be brought, or arise out of, in connection with or by reason of this Contract.

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11. Enforceability. If any term, covenant, condition, or provision of this agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby until such a time as the entire contract can be rewritten.

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12. Nondiscrimination. District and CAL FIRE-SLO employees have a responsibility for maintaining high standards of honesty, integrity, impartiality, and conduct to assure proper performance of the District's and CAL FIRE-SLO's business and the maintenance of confidence of the people it serves. Therefore, it is the policy of the District and CAL FIRE-SLO to provide equal employment opportunity to all qualified job applicants and employees based on merit, and to prohibit illegal discrimination in every aspect of personnel policies and employment practices, including recruitment, examining, hiring, promotion, training, work assignments, work environment, and other benefits of work employment.

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13. Conflicts of Interest. Contract Employee agrees, during the term of this Contract, not to engage in any other employment or endeavor that would in any way conflict with, or impair Contract Employee's ability to perform the duties described in this Contract, without approval of the Chief of CAL FIRE-SLO or his/her designee.

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14. District Policies. The following District Policies apply to Contract Employment of Firefighters:

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(a) The **Policies and Procedures of the Fire Department**.

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(b) **Personnel Handbook Unit**

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(c) The District's **Substance Abuse Policy**.

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- (d) The District's **Sexual Harassment Policy**.
- (e) Guidelines contained within the CAL FIRE-SLO Standard Operating Guideline as determined by the Chief of CAL FIRE-SLO or his/her designee.

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IN WITNESS WHEREOF, District and Contract Employee have executed this Contract on the day and year first hereinabove set forth.

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By: \_\_\_\_\_  
Renee Osborne, General Manager  
General Manager

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I have read this Contract and agree to be employed by the District under the terms and conditions herein stated. I understand and agree that no manager, supervisor, or representative of the District has the authority to enter into any agreement, expressed or implied, that would modify the terms and conditions of this Contract. I acknowledge receipt of Reserve Fire Fighter job description and the Policies described in Paragraph 14 above.

\_\_\_\_\_  
XXXXXX, Contract Employee

Date \_\_\_\_\_