

**RESOLUTION NO. 2370**

**A RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE OLIVEHURST PUBLIC UTILITY DISTRICT  
APPROVING THE EMPLOYER PICK-UP OF  
MANDATORY EMPLOYEE CONTRIBUTIONS TO THE  
PENSION TRUST FOR OPERATING ENGINEERS**

**WHEREAS**, the Olivehurst Public Utility District (District) Business and Utility Unit (Unit) is represented by the Operating Engineers Local No. 3 of the International Union of Operating Engineers, AFL-CIO (Union); and

**WHEREAS**, the Union's most recent Memorandum of Understanding (MOU) with the District, which was effective July 1, 2018, and will expire on June 30, 2021, provides that the District will contribute 12% of each Unit-represented employee's base hourly rate and up to 2.5% of employee contributions to the Pension Trust for Operating Engineers (OE3 Pension Trust) or the District's Internal Revenue Code (Code) section 457(b) eligible deferred compensation plan (457(b) Plan), and that the employee may apportion that contribution between those plans; and

**WHEREAS**, the District agreed in an Agreement by and between the District and the OE3 Pension Trust, dated October 29, 2020, that, as a condition of the District's continued participation in the OE3 Pension Trust, the District would contribute 19.96% of total salary for each covered employee, consisting of 13% on-benefit contributions and 6.96% in additional funding improvement plans contributions; and

**WHEREAS**, the Board of Directors of the District (Board) has approved a Side Letter of Agreement with the Union on or about December 21, 2020 (Side Letter), which Side Letter provides that employees who participate in the OE3 Pension Trust will, effective January 1, 2021, contribute 7.96% of each such employee's salary each month towards the total contribution referenced in the preceding paragraph required to be made to the OE3 Pension Trust; and

**WHEREAS**, under Code section 414(h)(2) and related guidance from the Internal Revenue Service, such deductions from employees' compensation qualify for pre-tax treatment only if the District takes formal action to designate the deductions, for tax purposes, as contributions "picked-up" by the District; and

**WHEREAS**, the Board wishes to adopt this resolution in order to, in accordance with Code section 414(h)(2), designate amounts deducted from employees' compensation to fund benefits under the OE3 Pension Trust as pick-up contributions; and

**WHEREAS**, District will pick up all mandatory employee contributions to the OE3 Pension Trust in accordance with Code section 414(h)(2) and all guidance issued thereunder.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Olivehurst Public Utility District as follows:

1. This Resolution applies to all contributions that are required to be made by any employees of the District as participants in the OE3 Pension Trust in accordance with the MOU and the Side Letter, and deducted on a regular, payroll deduction basis, and that are designated by the District as required employee contributions.
2. Although designated as employee contributions and deducted from employees' compensation, the contributions shall, for tax purposes, be characterized as "picked up" by the District in accordance with Code section 414(h)(2), and shall be treated as paid by the District in lieu of contributions by the employee.
3. Employees shall not have the option of choosing, directly or indirectly, to receive the contributions instead of having them paid by the District to the OE3 Pension Trust.
4. The District shall pay to the Plan the contributions designated as employee contributions from the same source of funds as used in paying salary.
5. Employee contributions that are picked up in accordance with this Resolution shall result in the tax deferral of these contributions to the extent provided under the Code, Treasury regulations and other guidance issued thereunder.
6. This Resolution establishes and adopts the District's pick-up practices in accordance with Revenue Ruling 2006-43.

**PASSED AND ADOPTED** by the Olivehurst Public Utility District Board of Directors at a Special Meeting held on the 21st day of December, 2020.

**OLIVEHURST PUBLIC UTILITY DISTRICT**

  
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 President, Board of Directors

**ATTEST:**

  
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 District Clerk & ex-officio Secretary

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY**

  
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 Deirdre Joan Cox, Legal Counsel

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I hereby certify that the foregoing is a full, true, and correct copy of a Resolution duly adopted and passed by the Board of Directors of the Olivehurst Public Utility District, Yuba County, California, at a meeting thereof held on the 21<sup>st</sup> day of December, 2020, by the following vote:

AYES, AND IN FAVOR THEREOF : Directors Burbank, Nelson, Perrault, and Floe  
NOES : None  
ABSTAIN : None  
ABSENT : Director Griego

  
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District Clerk and ex-officio Secretary