

Olivehurst Public Utility District



Agenda Item Staff Report

Meeting Date: June 20, 2024

Item description/summary:

Discuss Term Sheet, Non-Binding MOU and Grant/Loan Agreement Amendment #4 for the South County Project (attached). The project management group has put together the term sheet and non-binding MOU to outline how the project will be funded. These documents will be forwarded to the grant team at the State as part of our grant application project. The grant/loan agreement amendment #4 is for the completion of the design work to get us ready for bid for our portion of the project as well as funding for the continuation of the right-of-way acquisition portion of the project.

Fiscal Analysis:

The amendment amount of \$2,376,000 is a full grant from the Yuba Water Agency. There is no loan portion to this funding.

Employee Feedback

None

Sample Motion:

Move to approve the Term Sheet, Non-Binding MOU and Grant/Loan Agreement Amendment #4 as outlined.

Prepared by:

John Tillotson, P.E., General Manager

AMENDMENT NO. 4

To the YUBA COUNTY WATER AGENCY AND OLIVEHURST PUBLIC UTILITY DISTRICT GRANT & LOAN AGREEMENT

THIS FOURTH AMENDMENT TO AGREEMENT is made this 20th day of June 2024, between Yuba County Water Agency, a local government agency (“Agency”), and Olivehurst Public Utilities District, a local government agency (“Borrower”), who agree as follows:

1. Recitals. This fourth Amendment is made with reference to the following background recitals:

1.1. On July 22, 2020, the parties entered into a Grant and Loan Agreement to fund the design of infrastructure systems to collect wastewater from and deliver potable water to property in and around the Highway 65 corridor and related costs (the “Agreement”), which is on file in the Agency office.

1.2. On September 15, 2020, the parties agreed to amend the Grant and Loan Agreement increasing the loan amount by \$250,000 and the grant amount by \$250,000 for costs relating to CEQA review, property appraisal/acquisition, and contingency for the potable water and wastewater infrastructure for the sports, entertainment and industrial zones in south Yuba County in and around the Highway 65 corridor.

1.3. On March 16, 2021, the parties agreed to amend the Grant and Loan Agreement a second time in order to provide an additional \$353,236.50 loan and \$ 353,236.50 grant for additional water and wastewater infrastructure design services relating to the Agreement-funded work.

1.4. On October 18, 2022, the parties agreed to amend the Grant and Loan Agreement a third time in order to provide an additional \$1,550,000 loan for additional water and wastewater infrastructure design services relating to the Agreement-funded work.

1.5. The parties now desire to amend the Agreement a fourth time in order to provide an additional \$2,376,000 grant for additional water and wastewater infrastructure design services relating to the Agreement-funded work and supplemented in Exhibit A to this amendment.

2. Amendments to Agreement. The parties amend the Agreement as follows:

2.1. **Agreement section 1.2 is changed to read as follows:** “Borrower seeks financing assistance from Lender so that Borrower may proceed with the infrastructure design work, CEQA, property appraisal/acquisition and contingency for the potable water and wastewater infrastructure. Borrower requests that Grantor provide (a) a grant in the sum of \$2,376,000 (the “Grant).”

3. No Effect on Other Provisions. Except for the amendments in section 2, the remaining provisions of the Agreement are unaffected and remain in full force and effect.

YUBA COUNTY WATER AGENCY

OLIVEHURST PUBLIC UTILITY DISTRICT

By: _____
Nicholas Whittlesey, Jr.,
General Manager

By: _____
John Tillotson, General Manager

Date: _____

Date: _____

Exhibit A to Amendment 4

Wheatland OPUD Regional Wastewater Transmission and Treatment Facilities Project –
Description of Remaining Design Engineering, May 2, 2024

**WHEATLAND OPUD REGIONAL WASTEWATER TRANSMISSION AND TREATMENT FACILITIES PROJECT
REGIONAL PROJECT PHASE 1 - REMAINING DESIGN ENGINEERING – SUMMARY OF ANTICIPATED COSTS**

	Consultant (Client)	Description of Remaining Design Engineering	\$
	Jacobs (OPUD)		
1		OPUD WWTP reliability Improvements (New)	640,000
2		PS 21 to OPUD WWTP pipeline Revisions (Re-Design)	70,000
3		PS 21 to PS 26 HDD Crossings (Re-Design)	200,000
4		PS 21 (Re-Design)	175,000
5		PS 1 (Study and Re-Design)	175,000
6		PS 2 Study and Design (New)	150,000
7		BODR Appendix	45,000
8		Environmental permitting	125,000
9		Caltrans Encroachment Permitting (now not CUPA)	10,000
10		Project coordination and meetings, legal support	225,000
11		Bid support through construction contracts awards	60,000
12		PG&E liaison and coordination	35,000
		TOTAL	\$1,910,000
	Bender Rosenthal, Inc. (OPUD)		
1		ROW appraisal and acquisition tasks (not land acquisition cost)	250,000
		TOTAL	\$250,000
		OPUD TOTAL (without 10% contingency)	\$2,160,000
		OPUD TOTAL (with 10% contingency)	\$2,376,000

(Based on spreadsheet Rev 5 by Steve DeCou (Jacobs) and discussions at 4/30/24 engineer’s meeting)

Note and need to determine:

1. PS 26 is being deferred to a later phase. Updates to PS 21 and PS 2 required in lieu.
2. Does Yuba Water wish to fund part of OPUD Historic District SSO Study, Environmental, Design? Currently not included (note that PS 2 costs are included in the above).
3. Will Yuba Water fund the construction of the oversizing of the Main Transmission Line downstream of the PS #2 connection? (OPUD / Yuba Water discussion)
4. Timing of sewer collection system connection fee study to repay YWA for advancing funds for Main Transmission facilities?

**MEMORANDUM OF UNDERSTANDING CONCERNING
SOUTH COUNTY INFRASTRUCTURE PROJECT FUNDING**

This Memorandum of Understanding (“MOU”) is entered into as of _____, 2024 by Yuba County Water Agency (“Agency”), a California special district, Olivehurst Public Utility District (“OPUD”), a California special district, and City of Wheatland (“Wheatland”), a California municipality, (collectively “Parties”) who agree as follows:

1. Recitals

This MOU is made with reference to the following background recitals:

1.1. The purpose of this MOU is to set forth the Parties’ intent and understanding for how they propose to fund a regional water and wastewater project known as the South County Infrastructure Project (“Project”). This MOU is a non-binding statement of intent. It shall not give rise to any legally binding or enforceable obligation on behalf of any Party, regardless of statements, writings, conduct or otherwise. At an appropriate time, the Parties intend to negotiate and enter into a future, binding agreement (“Interim Funding Agreement”) that will further describe their obligations concerning the Project.

1.2. OPUD provides wastewater services within its service area in Yuba County, California. OPUD treats wastewater for disposal at the OPUD Wastewater Treatment Plant (“OPUD WWTP”). The OPUD WWTP has available treatment capacity to serve additional future connections.

1.3. Wheatland provides wastewater services within city limits in Yuba County, California. Wheatland treats wastewater for disposal at the Wheatland Wastewater Treatment Plant (“Wheatland WWTP”). The Wheatland WWTP is aging, has limited treatment capacity to accommodate additional infill growth, and does not meet current standards for disposal of municipal wastewater. The Wheatland WWTP is also located on the river side of the Bear River Levee, leaving the plant at risk for potential flood risks.

1.4. In 2019, Wheatland commissioned a Wastewater Treatment Alternatives Analysis report to explore options for upgrading the Wheatland WWTP. That report concluded that the most feasible option for upgrading the Wheatland WWTP would be to develop facilities to convey untreated wastewater to OPUD or a neighboring agency for treatment and disposal.

1.5. Wheatland and OPUD are proposing a Project to develop a regional wastewater conveyance system to serve Wheatland and OPUD. The system would generally include new pump stations and pipelines to convey untreated wastewater from Wheatland to OPUD.

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1.6. OPUD and Wheatland have tentatively agreed to align their capacity charges for Project users to an estimated \$9,000 per equivalent dwelling unit (“EDU”) for WWTP capacity and an additional \$9,000 per EDU for conveyance capacity, a total of \$18,000, subject to future compliance with the legal requirements for setting capacity charges.

1.7. Agency, Wheatland, OPUD, and the County of Yuba have previously funded aspects of the Project’s design, engineering and environmental analysis, for an approximate total of \$15 million total and Agency further desires to assist in funding the Project with an additional \$5 million in furtherance of the Agency’s mission to protect Yuba County’s water quality and supplies.

2. Agreement

2.1. Recitals. The Recitals in Section 1 are incorporated into and shall constitute a part of this MOU.

2.2. Funding Contributions. The Parties anticipate that to construct the Project and obtain appropriate real property rights, it will cost approximately \$129,142,000 (“Project Cost”). Subject to the anticipated conditions set forth in section 2.3, the Parties intend that the Interim Funding Agreement will include the following contributions to fund the Project Cost, all as further described in the succeeding subsections:

State Water Resources Control Board	\$50,000,000
Agency	\$75,642,000
Wheatland	\$3,500,000
<hr/>	
Total Funding	\$129,142,000

2.2.1. SWRCB Funding Contribution. OPUD and Wheatland have applied for \$50,000,000 in grant funds from the State Water Resources Control Board (“SWRCB”) to assist in funding the Project. As of the date of this MOU, the SWRCB has completed its technical review of the grant application and has requested the Parties submit a Project financing package for SWRCB review. The Parties support the grant application and agree that OPUD and Wheatland shall submit this MOU to the SWRCB in support of the Project financing package.

2.2.2. Agency Funding Contribution. Agency has preliminarily determined that construction of the Project will further Agency’s mission to protect surface and groundwater quality and supplies in Yuba County by, among other things, eliminating upset risk at the current Wheatland WWTP adjacent to the Bear River. Agency anticipates

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contributing up to \$75,642,000, to the Project. The Agency anticipates it may make this contribution as a grant or loan to the Project, or some combination of the two.

2.2.3. Wheatland Funding Contribution. Wheatland anticipates contributing up to \$3,500,000 to the Project using previously collected wastewater capacity charges or other funds.

2.2.4. Wheatland and OPUD anticipate working collaboratively to make their best efforts to repay the Agency loan through sewer revenue bonds, impact fees, or some combination of the two, based on an allocation of Project costs to be agreed upon between OPUD and Wheatland.

2.2.5. OPUD Project Contribution. While OPUD is not making a direct funding contribution toward the Project, the Parties acknowledge that through OPUD's participation in the Project, OPUD will incur significant non-Project staff, consultant, design, and construction costs, as well as significant additional obligations, which will inure to the benefit of the Project and Parties.

2.3. Funding Conditions. The Funding Contributions set forth in section 2.2 will be subject to the conditions in the future Interim Funding Agreement. The Parties intend that the Interim Funding Agreement will include the following conditions:

2.3.1. The SWRCB, OPUD, and Wheatland enter into one or more binding funding agreements in which the SWRCB agrees to a Project grant or forgivable loan in the amount of \$50,000,000.

2.3.2. The Parties, or a subset of the Parties as appropriate, use their best efforts to form a joint powers authority or other entity as appropriate to manage funding and construction of the Project.

2.3.3. OPUD and Wheatland fulfill their legal obligations, if any, to adopt aligned capacity charges for Project users, which are currently estimated to be a combined \$18,000 per EDU.

2.3.4. The Parties, or a subset of the Parties as appropriate, enter into a binding agreement to secure repayment of any portion of the Agency contribution that the Agency determines will be treated as a loan rather than a grant.

2.3.5. OPUD and Wheatland, or a joint powers authority or other entity formed under section 2.3.2, conditionally enter into public works construction contracts for the Project in amounts, plus contingencies, that do not exceed the Project Cost or any updated Project Cost agreed to by the Parties. The Parties agree to make their best effort to develop a Community Workforce Agreement with respect to the construction work of this Project stating their preference to hire local union and non-union workers for work performed on this Project.

2.4. CEQA Compliance. This MOU is a non-binding statement of the Parties' intent concerning the Project and shall be considered a preliminary agreement pursuant to section 150004, subdivision (b)(4) of title 14 of the California Code of Regulations. Potential future approval of the Project and any development proposals by Future Users will be expressly conditioned upon compliance with the California Environmental Quality Act ("CEQA"), and this MOU shall not be construed to (a) bind or commit any of the Parties to any specific course of action, (b) restrict any of the Parties from considering any feasible mitigation measures and alternatives, including a "no project" alternative, or (c) restrict any of the Parties from denying the Project or any development proposals by Future Users.

[Signatures on Following Page]

[Signature Pages for the Parties (Agency, OPUD, and Wheatland)]

Draft Term Sheet for South County Infrastructure Project

June 17, 2024

The City of Wheatland (Wheatland), the Olivehurst Public Utility District (OPUD), the County of Yuba (County), and the Yuba Water Agency (Agency) have agreed to work collaboratively to bring water and wastewater infrastructure to the south of Yuba County. This Term Sheet outlines the agreements and understandings of the development and delivery of this endeavor, as of this date.

The project. This project consists of three parts:

1. Part 1 consists of a wastewater conveyance system, generally including transition pipelines and new pump stations, between the City of Wheatland (City) and the Olivehurst Public Utility District's (OPUD) wastewater treatment plant (WWTP).
2. Part 2 consists generally of an oversizing of the transmission line between PS021 and the OPUD WWTP and significant upgrades and improvements to the OPUD WWTP and system, as outlined in Attachment A.
3. Part 3 consists of water and wastewater transmission lines down 40 Mile Road, Rancho Road and Mary/McGowan Parkway and related improvements, and necessary SSO mitigation improvements.

Benefits of the Project. Wheatland, OPUD, the County of Yuba, and Yuba Water Agency have identified and agree on the overall benefits immediately and well into the future of the project:

1. To protect Yuba County's water quality and supplies;
2. To enable significant job growth in commercial and industrial zones for Wheatland and the County;
3. To enable expansion and significant job growth in the County's Sports & Entertainment Zone;
4. To enable expansion of housing opportunities within Wheatland and the County;
5. To enable housing development close to Beale Air Force Base to improve military readiness and reduce vehicle miles traveled (VMT);
6. To enable a possible future Beale wastewater connection for service redundancy.

Financing. The parties have been working for more than three years to design and prepare for this Project. To date more than \$15 million has been advanced by the Agency to fund the design, engineering, and environmental analysis for the Project. The County contributed approximately \$2 million for the placement of an oversized pipe on McGowan Parkway. Wheatland and OPUD have incurred significant staff, consultant, design and construction costs to further the Project.

The Agency recently committed an additional \$5 million to bring Part 1 and Part 2 of the Project to bid-ready. The parties anticipate that an additional \$5 million will be needed to bring Part 3 to bid-ready.

Currently, the estimated cost of the entire Project is \$211,742,000. The parties have agreed to pursue a \$50 million grant from the State Water Resources Control Board (SWRCB) to partially fund Part 1. A separation MOU outlines the agreements of that phase.

Other sources of funding are outlined below.

	Part 1	Part 2	Part 3
Total estimated cost	\$129,142,000	\$11,000,000	\$71,600,000
Possible funding sources:			
SWRCB	50,000,000		
Wheatland	3,500,000		
Yuba Water	75,642,000		
OPUD		11,000,000	
DCIP grant			9,750,000
EDA grant			5,000,000
CA Jobs First			50,000,000
New growth			25,000,000
Tribal grant			?
Projected totals	129,142,000	11,000,000	89,750,000?

OPUD Funding. OPUD has identified approximately \$11.0 million of actions required for all the three Parts of Project, as outlined in the attached “Details of OPUD’s Contribution to the South County Project.” Generally, these items were removed from Part 1 when efforts were being made to reduce the total cost of Part 1. OPUD has stated its intent to fund the approximately \$11 million of projects, as outlined.

Part 3 Preparations: Final engineering, environmental and other preparation work to prepare the Part 3 project to be bid-ready immediately upon confirmation of reliable funding sources.

While continuing preparations to be bid-ready upon receipt of a grant agreement from the SWRCB, the parties agree to continuing to find sources of funding for the project, including grants and loan for all appropriate sources.

Construction. The Parties agree to make their best effort to develop a Community Workforce Agreement with respect to the construction work of this Project stating their preference to hire local union and non-union workers for work performed on this Project.

Non-binding Agreement. The parties agree to ensure a good faith effort to complete these and any other steps necessary for the completion of the project. However, nothing in this agreement should be construed to be legally binding.

Signatories:

Yuba Water Agency

Olivehurst Public Utility District

City of Wheatland

County of Yuba

Attachment: Details of OPUD’s Contribution to the South County Project

In the table below you will find the items that OPUD is contributing to the South County Project. For clarity, none of the items in the table are included in the \$129M project cost. These items are required for the project for various reasons including mitigation of risk to OPUD and to keep future capacity fees reasonable. OPUD will fund these items internally with a combination of capacity fees where applicable and reserve funds for the remainder.

Item	Description	Amount
Pump Station 1	SSO Risk Mitigation*	\$4.5M
Pipeline, 11 th to 14th Street	SSO Risk Mitigation*	\$1M
WWTP Filter Module Addition	SSO Risk Mitigation and Wet Weather Flow increase	\$1.75 (actual cost is dependent on filter unit selected by OPUD Staff after study completion)
WWTF Land Purchase, 30.5 acres	Needed to avoid extreme capacity fee hike for WWTP	\$2M
Studies, Design, Permitting and CEQA Costs Related to the Project	Funding to Keep Project Moving Forward	\$1.3M
WWTP Master Plan and Connection Fee Study	Study Required to Determine new WWTP Connection Fee	\$0.47M
OPUD Contribution	<u>Total</u>	\$11+M

*Originally part of the State grant application but removed to decrease the grant amount.

With the \$11M OPUD contribution identified above, OPUD will not contribute an additional \$5.5M as part of the overall \$129M project as requested. Please also note that OPUD capacity fees cannot be used as a ‘buy-in’ to the project as contemplated by the group. Capacity fees can only be used for increase in capacity. Additionally, if the County intended to fund the purchase the 30.5 acres they may be amenable to contributing (repurposing) that \$2M to the project for other general purposes since OPUD will fund the purchase of the land. That would reduce the \$129M by another \$2M.

Methodology used: Construction and permanent employment of 40 acres (Hard Rock Hotel & Casino Sacramento at Fire Mountain) extrapolated to 350 acres

SPORTS & ENTERTAINMENT ZONE

Extrapolated Long-term Economic Impact at 100% Buildout of 350 acres

- Direct employment: 9,000
- Indirect employment: 534
- Induced employment: 1,531
- Total employment: 11,065
- Total sales/output: \$1,374,592,537

Extrapolated Economic Impact of Construction (buildout of additional 350 acres)

- Direct employment: 17,500
- Indirect employment: 2,773
- Induced employment: 8,187
- Total employment: 28,460
- Total sales/output: \$3,033,055,785

EMPLOYMENT VILLAGE (east side of Hwy 65)

Extrapolated Long-term Economic Impact at 100% Buildout of 3,000 acres and assuming 50% employment number as were actual from Hard Rock. Assuming all jobs would be in manufacturing.

- Direct employment: 37,500
- Indirect employment: 8,134
- Induced employment: 14,951
- Total employment: 60,585
- Total sales/output: \$19,777,973,658

Extrapolated Economic Impact of Construction (buildout of additional 3,000 acres and assuming 50% employment number as were actual from Hard Rock)

- Direct employment: 75,000
- Indirect employment: 9,113
- Induced employment: 25,241
- Total employment: 109,354

This development will provide high quality jobs for both residents in Sutter and Yuba County in manufacturing, construction, tourism, hospitality, and more. For an example of quality jobs, Hard Rock Hotel and Casino Sacramento at Fire Mountain provided 2,000 jobs in construction and employment of 1,000. The employees reside in the counties of Yuba-Sutter (66%), Sacramento (16%), Placer (10%), Butte (3%), Yolo (2%) and other counties (3%). The average salary is \$78,841, and the average wage earner is \$40.55 per hour and 35% of wage earners receive gratuities. In addition to paid wages, employees receive one free meal per shift which has an annual value of \$2,700 per employee. Employees are also provided with 21 team member engagement activities. The annual average employer contribution to healthcare is \$17,072 per employee.