

Olivehurst Public Utility District



Agenda Item Staff Report

Meeting Date: 4/25/24

Item description/summary:

Consider accepting EPS Proposal for Water Capacity and Connection Fee Update.

OPUD is currently working on the Sewer Capacity and Connection Fee. It would be wise to also do the Water Capacity and Connection Fee Update. Last Water Capacity Fee nexus study occurred in 2009. This proposal will allow to update predicted growth, infrastructure needed to meet growth, and properly assess fees to today's needs and requirements as our water system grow.

Fiscal Analysis:

The work required for this proposal will cost \$40,000. OPUD has the amount covered under fees collected for Admin fees when receiving Capacity fees that can only be used for items as this.

Employee Feedback

n/a

Sample Motion:

Accept EPS Proposal for Water Capacity and Connection Fee Update

Prepared by: Swarnjit Boyal, Public Work Engineer

**ATTACHMENT A – PROPOSAL TO PREPARE A
WATER CAPACITY CHARGE AND CONNECTION
FEE NEXUS STUDY UPDATE**

The Economics of Land Use



March 21, 2024

John Tillotson
General Manager
Olivehurst Public Utility District
1970 9th Street
Olivehurst, CA 95691

Subject: Proposal to Prepare a Water Capacity Charge and Connection Fee Nexus Study Update; EPS #242023

John:

Economic & Planning Systems, Inc. (EPS) would appreciate the opportunity to update the Nexus Study (Study) for the water capacity charge and connection fees for Olivehurst Public Utility District (District). EPS has appreciated working with the District in implementing its water and sewer capacity charges during the past several years.

EPS is preparing an update for wastewater capacity charges for the District. EPS last updated the Study for the water capacity charge via consolidation of the Plumas Lake Specific Plan (PLSP) North and South Zones in 2009.

EPS is proposing the Scope of Work in **Attachment A** to complete the Study.

Key Personnel

Managing Director **Jamie Gomes** will serve as Principal-in-Charge of this project and will provide guidance and input as needed. Senior Vice President **Russ Powell** will serve as Project Manager and will conduct the day-to-day management of this project. Additional EPS staff also may assist on this project as needed.

Economic & Planning Systems, Inc.
455 Capitol Mall, Suite 701
Sacramento, CA 95814
916 649 8010 tel
916 649 2070 fax

*Oakland
Sacramento
Denver
Los Angeles*

www.epsys.com

Schedule

The District wishes to have the Study update completed by December 2024. EPS will begin working on this update as soon as contract approval is received and will strive to complete the project on schedule. EPS will provide the District with accurate information and work products on a schedule that meets the District's needs.

Budget

The estimated budget to complete this work is **\$40,000**. EPS charges for its services on a direct-cost (hourly billing rates plus direct expenses), not-to-exceed basis; therefore, you will be billed only for the work completed up to the authorized budget amount. Travel, data, or reproduction expenses will be billed at cost, and invoices are submitted monthly and are payable on receipt. If additional work or meetings are required, EPS will request authorization for additional budget with the understanding that terms will be negotiated in good faith. EPS's Hourly Billing Rates and Terms and Conditions are attached as part of this letter agreement.

Again, EPS would appreciate the opportunity to work on this project. To approve this proposal, please sign below, return a signed copy of this letter agreement to EPS, and keep another copy for your records. If you have questions or require changes to this proposal, please call Project Manager **Russ Powell** at (916) 649-8010.

Sincerely,

ECONOMIC & PLANNING SYSTEMS, INC. (EPS)



Jamie Gomes
Managing Director

Attachments

Approved:

Olivehurst Public Utility District

Date

Attachment A

Scope of Work

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The previous Study to create the capacity charge was prepared for the PLSP North and South Zones. The new Study will anticipate implementing capacity charges and connections fees for all territory in the District. The Study will include an analysis of costs for new development to provide a connection between the main Olivehurst water system and the PLSP water system. Currently, there is no ability to share water delivery between the two systems.

This Scope of Work is recommended to complete the update to the Study.

Task 1: Prepare an Update to the Nexus Study for Water System Capacity Charges and Connection Fees

Subtask 1.1: Initiate Project and Develop Approach for Nexus Study Update

At the outset of the project, it will be imperative to ensure that all members of the Project Team (District staff, EPS, and Affinity Engineering) are coordinated and engaged in developing a consistent project strategy. EPS will therefore participate in a kickoff meeting with all members of the Project Team, where project roles, data needs, timing, and other critical elements will be discussed and established. The primary outcome of this meeting will be a project strategy establishing the Project Team's coordinated approach to preparing the impact fee updates; evaluating the viability of the updates from administrative, financial, and political perspectives and calibrating the Study accordingly; and deciding on an approach for presenting the proposed fees to interested stakeholders (internal and external).

In preparation for this meeting, EPS will review all pertinent background documents, including the latest version of the Study, prepared in 2009, along with subsequent subject-matter area expert recommended changes. EPS will offer initial comments and feedback regarding adjustments to the approach that District staff should consider at the outset of the Study update process.

Subtask 1.2: Prepare Analysis for Nexus Study

Leveraging its prior work prepared, EPS will work with Affinity Engineering to compile the updated cost and cost allocation factor data needed to prepare the nexus analysis for each proposed fee. EPS will evaluate the approach for the 2009 Study and update as needed.

At the outset of the nexus analysis work, EPS recommends that District staff, Affinity Engineering, and EPS work together to review the capital improvement programs (CIPs) providing the basis for proposed fee programs. Fee program CIPs should be prioritized to identify what infrastructure components are critical, systemically important, or “nice to have but perhaps not mission critical.” To the extent possible, this review should also identify specific development junctures at which infrastructure deficiencies will preclude further development activity, or other outcomes that will result from under-collecting fees from new development. EPS will work with District staff and Affinity Engineering to conduct this review. This information will provide a solid framework for potential calibration of the fee program in response to feasibility issues that may arise. During this process, EPS will work with District staff to thoroughly evaluate the proposed CIP costs and means by which those costs are allocated to new development.

In preparing the nexus analysis, EPS will use the following methodology to develop fee calculations:

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The nexus methodology will satisfy these Government Code Section 66000 et seq. requirements:

- Identify the purpose of the fee.
- Identify the use of the fees. If the use is financing public facilities, the facilities must be identified.

- Determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed.
- Determine how there is a reasonable relationship between the need for a public facility and the type of development project on which the fee is being imposed.

Using the above-described approach, EPS will prepare a draft set of impact fee calculations for the District to review and provide feedback. EPS will revise the draft tables as necessary to prepare the final fee calculations.

Subtask 1.3: Prepare Reports and Attend Meetings

Based on the work completed through prior tasks, EPS will prepare Administrative Draft Reports of fee program documents for review and comment by District staff. The analysis will state the proposed fees for each land use and the necessary supporting analysis and findings. EPS will assist the District with public outreach to all stakeholders and provide information to stakeholders, as requested. Once the public outreach efforts have been concluded, EPS will incorporate all recommended revisions to the Study and present it to the District for review. After including initial feedback, EPS will prepare a Public Review Draft of the Study. Unless additional revisions are necessary, the Public Review Draft of the Study can be used as the Hearing Report for the Board of Directors' consideration of the proposed fees. To prepare for the public hearing process, EPS will review and comment on the draft District ordinances and resolutions used to implement the proposed Utilities Fee Program.

EPS anticipates attendance at three public meetings.

2024 Hourly Billing Rates

Sacramento Office

Managing Principal	\$320
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Senior Consultant	\$260
Vice President	\$245
Senior Technical Associate	\$215
Senior Associate	\$215
Associate	\$195
Research Analyst II	\$155
Research Analyst I	\$105
Production and Administrative Staff	\$100

Billing rates updated annually.



Terms and Conditions for Consulting Services

EPS #242023

1. Authority

Each party has full power and authority to enter into and perform this contract, and the person signing this contract on behalf of each has been properly authorized and empowered to enter into this contract. Each party further acknowledges that it has read this agreement, understands it, and agrees to be bound by it.

2. Independent Contractor

It is specifically understood and agreed that in the creation and performance of this Agreement, EPS is an independent contractor, and is not and shall not be construed to be an employee or agent of the CLIENT.

3. Insurance

EPS shall maintain the following insurance:

- 3.1. Workers Compensation as required by law.
- 3.2. General Liability insurance of \$2,000,000 each occurrence, \$4,000,000 general aggregate.
- 3.3. Auto Liability insurance of \$2,000,000, combined single limit for bodily injury and property damage, covering non-owned and hired autos only.
- 3.4. Errors and Omissions/Professional Services Liability insurance in the amount of \$2,000,000 per claim/aggregate.
- 3.5. Excess/Umbrella Liability insurance of \$3,000,000.

4. Personnel

EPS represents that it is an equal opportunity employer and has, or will secure at its expense, all personnel required in performing the services under this Agreement. All personnel engaged in the work shall be authorized or permitted under State and Local law to perform such services.

5. Interest of EPS

EPS covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

6. Publication, Reproduction, and Use of Material

CLIENT may publish, distribute, or otherwise use any data, information, reports, or other materials prepared under this Agreement by EPS (EPS Work Product), in whole or in part, for purposes of this project (as described in an attached Work Order). This authority does not apply to any computer models or software used or developed as a result of this contract, unless a separate agreement is signed concerning the disposition of such materials or compelled by legal process. CLIENT acknowledges that EPS Work Product was prepared by EPS solely for contemporaneous use by CLIENT for this Project and that it is not intended for use at any other time, location, purpose or by any other party. Accordingly, CLIENT shall not, without the prior written consent of EPS (which EPS may withhold in its sole discretion), (i) use EPS Work Product for purposes unrelated to the Project, (ii) modify EPS Work Product, or (iii) disclose or distribute any EPS Work Product to any other person, firm, or entity. EPS shall be entitled to indemnification by CLIENT, pursuant to paragraph 13 hereof, if CLIENT breaches this provision, in addition to all other available remedies at law or in equity.

7. Confidentiality

Any reports, information, or data given to or prepared or assembled by EPS under this Agreement shall not be made available to any individual or organization by EPS without the prior written approval of the CLIENT. EPS is entitled to retain copies of all data, working papers, interim documents, memoranda, and reports produced under this Agreement. However, nothing contained herein shall prevent the disclosure of such information if compelled by legal process, and in the event thereof, only after notice to CLIENT.

8. Amendments to the Contract

No amendment to this Agreement shall be effective unless it is in writing and signed by duly authorized representatives of both parties.

9. Disputed Invoices

In the event that CLIENT disputes any item on an invoice, CLIENT shall notify EPS of this disputed item within five working days of receipt of the invoice. CLIENT will approve payment of items on an invoice that are not in dispute and CLIENT and EPS will proceed to negotiate or arbitrate the disputed items as specified elsewhere in this Agreement.

10. Audits and Inspections

On reasonable notice, CLIENT may inspect any books, records, or other materials that pertain directly to this Agreement.

11. Compensation for Testimony and Preparation Thereof

If any legal action is brought in connection with the Agreement, other than an action that is solely the result of the incompetence or malfeasance by EPS, by or against a third party, and CLIENT requests that EPS or a SUBCONSULTANT, (or if EPS or a SUBCONSULTANT is otherwise required) to testify, provide information, produce materials, or otherwise spend time on such action, then CLIENT shall pay EPS or SUBCONSULTANT for time expended at their standard rates then in effect, plus advance all related expenses and costs, including, but not limited to, reasonable attorneys' fees. Such compensation shall be in addition to the maximum charge for services defined in the Agreement.

12. Termination of Agreement

The CLIENT may, at its option, elect to cancel the contract at any time, by notice to EPS, on completion of any task described in the scope of services. In such event the CLIENT will pay to EPS the amount due by virtue of completion of the products therefore delivered. If such cancellation is not based on any claim of EPS default, such payment shall include any sums withheld pursuant to this Agreement. In addition, EPS shall be reimbursed (in addition to the payment) for that portion of the actual out-of-pocket costs not otherwise reimbursed under this Agreement previously incurred by EPS during the period of the Agreement, which are directly attributable to the incomplete portion of the services covered by this Agreement.

13. Indemnification/Limitation of Liability

CLIENT agrees to release, indemnify, hold harmless, and defend EPS and all of its partners, employees, agents, and representatives of all types from and against all claims, liability, loss, cost, damage, expense, or obligation, including, but not limited to reasonable attorneys' and experts' fees and costs, which any of them may hereafter incur, suffer, or be required to pay by reason of any acts or omissions of Client in connection with its performance of this Agreement except as to claims arising from the sole negligence or willful misconduct of EPS.

EPS agrees to release, indemnify, hold harmless, and defend CLIENT and all of its partners, employees, agents, and representatives of all types from and against all claims, liability, loss, cost, damage, expense, or obligation, including, but not limited to reasonable attorneys' and experts' fees and costs, which any of them

may hereafter incur, suffer, or be required to pay by reason of any acts or omissions of EPS in connection with its performance of this Agreement except as to claims arising from the sole negligence or willful misconduct of CLIENT.

In cases of shared negligence, responsibility shall be in proportion to each party's negligence.

14. Nondiscrimination and Equal Opportunity

EPS and its SUBCONSULTANTS shall not unlawfully discriminate against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by EPS under this Agreement because of race, religion, color, national origin, ancestry, physical disability, medical condition, marital status, age (over 40), gender, or gender orientation. EPS shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of EPS thereby.

15. Standard of Performance

All work performed by EPS for CLIENT pursuant to this Agreement shall be performed by qualified persons, and shall be performed in accordance with standards of performance generally applicable to experts in the field for which EPS's services are retained.

As in all projects of this type, the estimated results are based on the continued competent and efficient management by CLIENT. In addition, the conclusions reached by EPS are based on the assumption that no significant changes in project conditions will occur beyond those expressly discussed in EPS Work Product. EPS shall be able to rely on information provided to it by the CLIENT, and EPS shall have no responsibility to audit or otherwise verify such information.

16. Force Majeure

Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of such party. Such acts shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, power failures, earthquakes, or other disasters.

17. Arbitration

Any disputes arising out of this agreement shall be resolved by arbitration in accordance with Part 3, Title 9 of the Code of Civil Procedure, commencing with section 1280. All of the provisions of section 1283.05 are incorporated into, made a part of, and shall be applicable to, this agreement to arbitrate, except subdivision (e) requiring that leave be granted by the arbitrator before the taking of depositions.

18. Governing Law

This contract will be governed by and construed in accordance with the laws of the State of California.

19. Notice

Notice given under the terms of this Agreement shall be in writing and shall be effective the day it is mailed, properly addressed, to the party to receive such notice. Notice delivered other than by mail shall be effective when received. Any change of address of either of the parties shall be effective on receipt of notice of such change by the opposite party.

The Economics of Land Use



March 21, 2024

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Date

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Neither party shall be responsible for delays or failures in performance resulting from acts beyond the control of such party. Such acts shall include, but not be limited to, acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, power failures, earthquakes, or other disasters.

17. Arbitration

Any disputes arising out of this agreement shall be resolved by arbitration in accordance with Part 3, Title 9 of the Code of Civil Procedure, commencing with section 1280. All of the provisions of section 1283.05 are incorporated into, made a part of, and shall be applicable to, this agreement to arbitrate, except subdivision (e) requiring that leave be granted by the arbitrator before the taking of depositions.

18. Governing Law

This contract will be governed by and construed in accordance with the laws of the State of California.

19. Notice

Notice given under the terms of this Agreement shall be in writing and shall be effective the day it is mailed, properly addressed, to the party to receive such notice. Notice delivered other than by mail shall be effective when received. Any change of address of either of the parties shall be effective on receipt of notice of such change by the opposite party.