

# Olivehurst Public Utility District



## Agenda Item Staff Report

**Meeting Date: September 19, 2019**

### **Item description/summary:**

**Yuba Water Agency grant contract.** We were awarded a grant from the water agency in the amount of \$50,000 for a focused engineering study to determine the most efficient placement of a water treatment plant and detailed cost analysis on the plant and distribution system for the industrial, sports and entertainment zones the District is currently in the process of annexing. The water agency submitted the attached contract for the OPUD Board approval.

### **Fiscal Analysis:**

\$50,000 Grant for study referenced above

### **Employee Feedback**

None

### **Sample Motion:**

Move to approve the contract between OPUD and Yuba Water Agency for a \$50,000 grant as described.

Prepared by:

John Tillotson, P.E., General Manager

**GRANT AGREEMENT between YUBA COUNTY WATER AGENCY  
and OLIVEHURST PUBLIC UTILITY DISTRICT**

This agreement is made this 7<sup>TH</sup> day of August, by and between Yuba County Water Agency, a public agency (“AGENCY”), and Olivehurst Public Utility District (“Grantee”), who agree as follows:

1. **Grant.** The Agency agrees to grant to Grantee the sum not to exceed \$50,000, subject to the terms of this Agreement. The grant shall be used by Grantee to conduct an engineering study to evaluate and determine a cost estimate for a potable water system in the south County areas referred to as the sports & entertainment zone and the industrial zone. By approving this Agreement, Agency determines that the grant will directly further support Agency purposes and objectives consistent with the Yuba County Water Agency Act and that the grant is an authorized and appropriate expenditure of Agency funds.
2. **Work To Be Performed.** Grantee shall fully perform the work described on Exhibit A, a request letter dated July 19, 2019 (the “Work”).
3. **Method of Payment.** Upon request by Grantee, Agency shall pay all invoices, bills, statements, and other expenses for the Work. Total payments shall not exceed the grant amount. If Grantee has paid the vendor, with satisfactory proof of that payment, Agency will reimburse Grantee. Payment requests by Grantee shall include satisfactory copies of subject invoice(s), bill(s), statement (s), and/or other proof of cost item. If Agency determines that the payment request is for eligible costs, and if Grantee is otherwise in compliance with this Agreement, then Agency shall pay the item directly to the vendor, contractor, supplier, etc. within 30 days of receipt of the request.
4. **Term & Termination.**
  - 4.1. This Agreement shall take effect at the date entered above. Grantee must complete the Work, and all grant fund reimbursement/payment requests must be submitted to Agency by June 30, ~~2019~~2020, unless extended by mutual agreement of the parties. Any grant funds not expended by this date shall be forfeited by the Grantee and retained by the Agency.
  - 4.2. Agency may terminate this Agreement at any time for cause by giving 14 days prior written notice to Grantee. Cause shall mean (a) Grantee violates this Agreement, and such violation continues for a period of 30 days after notice of violation from Agency which notice shall specify the violation; (b) Grantee files or there is filed against Grantee a bankruptcy petition (unless, in the case of a petition filed against Grantee, the same is dismissed or stayed within 60 days); (c) Grantee makes an assignment for the benefit of creditors; (d) Grantee becomes insolvent or there shall occur a material adverse change in the financial conditions of Grantee; Grantee applies for or consents to the appointment of a receiver trustee, or conservator, or such appointment is made without Grantee’s consent and is not vacated within 60

days; ~~(f) Grantee files a petition or resolution of application for reorganization; or~~ or  
(fg) Agency suffers a significant loss of revenue and/or deposits/reserves, resulting  
in a loss of sufficient funds for this Grant.

5. **Compliance.** Grantee shall perform the Work in compliance with all applicable federal, state and local laws and regulations and codes, including acquisition of all required permits, licenses entitlements and authorizations.
6. **Public Works Requirement.** If the Work consists of public works, as defined in Labor Code sections 1720 to 1720.4, then Grantee and its contractors and subcontractors shall comply with California statues and regulations applicable to public works projects, including, but not limited to, the following requirements: payment of prevailing wage rates; employment of apprentices; hours of labor limitations and overtime; payroll records; workers' compensation insurance, payment/labor and materials bond (if grant amount exceeds \$25,000); non-discrimination laws; contractors' state license requirements; and California Environmental Quality Act environmental review.
7. **Inspections.** Agency reserves the right to inspect any Work to determine whether it is being performed in accordance with this Agreement. Agency may withhold grant payments if it finds Work nonconforming, until Grantee remedies the nonconformity.

## 8. Record Keeping.

- 8.1 Grantee shall keep and maintain bookkeeping records, accounts, and documentation pertaining to the receipt, disbursement, and use of the grant proceeds to pay vendors, contractors, suppliers, and others who perform the Work for Grantee, including all invoices, receipts, canceled checks, contracts, purchase orders, and other source documents.
- 8.2 These records shall be retained for a period of not less than three years from the final grant payment.
- 8.3 These records shall be accessible and available for inspection or audit by Agency, or by its employees, accountants, attorneys or agents, at reasonable times and upon reasonable notice.

9. **Indemnification.** Grantee shall indemnify, defend, protect, and hold harmless Agency, and its officers, employees, volunteers and agents from and against any and all liability, losses, claims, damages, expenses, demands, and costs (including but not limited to, attorney, expert witness and consultant fees and litigation costs) of every nature arising out of Grantee's performance of the Work and caused by the negligent or willful act or omission of Grantee and its contractors or subcontractors or their employees, agents, and subcontractors, except where caused by the active negligence, sole negligence or willful misconduct of Agency or as otherwise provided or limited by law. Contract's obligations under this indemnification provision shall survive the termination of, or completion of Work under, this Agreement.

**10. General Provision.**

10.1 Integration. This Agreement constitutes the sole, final, complete, exclusive and integrated expression and statement of terms of this contract among the parties concerning the subject matter addressed in this Agreement, and supersedes all prior negotiations, representations or agreements, either oral or written, that may be related to the subject matter of this Agreement, except those other documents that are expressly referenced in this Agreement.

10.2 Waiver. The waiver at any time by any party of its rights with respect to a default or other matter arising in connection with this Agreement shall not be deemed a waiver with respect to and subsequent default or matter.

10.3. Successors and Assignment. This Agreement shall bind and inure to the benefit of the respective successors, assigns, heirs, devisees, and personal representatives of the parties.

10.4 Governing Law and Venue. Except as otherwise required by law, this Agreement shall be interpreted, governed by, and construed under the laws of the State of California.

10.5 Attorney's Fees. In the events any legal action is brought to enforce or construe this Agreement, the prevailing party shall be entitled to an award of reasonable attorney's fees, expert witness and consultant fees, litigation costs, and costs of suit.

10.6 Notices. Any notice, demand, invoice or other communication required or permitted to be given under this Agreement shall be in writing and either served personally or sent by prepaid, first class U.S. mail addressed as follows:

Agency:

General Manager  
Yuba County Water Agency  
1220 F Street  
Marysville, CA 95901

Grantee:

General Manager  
Olivehurst Public Utility District  
Post Office Box 670  
Olivehurst, CA 95961

Any party may change its address by notifying the other party of the change in the manner provided above.

**YUBA COUNTY WATER AGENCY**

**OLIVEHURST PUBLIC UTILITY DISTRICT**

By: \_\_\_\_\_  
Curt Aikens, General Manager

By: \_\_\_\_\_  
John C. Tillotson, General Manager

**EXHIBIT A**

Request letter (attached) dated July 19, 2019 from John C. Tillotson, General Manager, Olivehurst Public Utility District including background of ongoing annexation, wastewater collection study, and the need for a potable water system infrastructure cost estimate.