

**FUNDING AND FINANCING AGREEMENT BETWEEN
THE OLIVEHURST PUBLIC UTILITY DISTRICT
AND THE CITY OF WHEATLAND
RELATING TO THE FUNDING OF
WASTEWATER TREATMENT PLANT
RELIABILITY AND REDUNDANCY IMPROVEMENTS
(CONTRACT 4)**

THIS CONTRACT 4 PERTAINING TO FUNDING AND FINANCING OF THE WASTEWATER TREATMENT PLANT RELIABILITY AND REDUNDANCY IMPROVEMENTS (this "Agreement") is made effective as of the ____ day of _____, 2026 (the "Effective Date"), by and between the **CITY OF WHEATLAND**, a municipal corporation duly organized and existing under the laws of the State of California (the "City"), and the **OLIVEHURST PUBLIC UTILITY DISTRICT**, a public utility district duly organized and existing under the laws of the State of California (the "District"). The District and the City may be referred to together herein as the "Parties" and individually as a "Party."

RECITALS

WHEREAS, the District and the City each currently own, operate, and maintain separate facilities for the collection and treatment of wastewater in their respective service areas, and the District-owned Wastewater Treatment Facility (the "Facility") is located at 3908 Mary Avenue, Olivehurst, California; and

WHEREAS, the Parties are participating in the South County Regional Wastewater Infrastructure Program (the "Project"), which includes the construction of regional conveyance facilities under Construction Contract No. 1 and Construction Contract No. 2 ("Contracts 1 and 2") and improvements to the Facility consisting of wastewater treatment plant reliability, redundancy, repair, replacement, and peak wet weather capacity enhancements constructed under Phase 1, Construction Contract No. 3 (the "WWTP Improvements" or "Contract 3"); and

WHEREAS, the Parties have entered into that certain OPUD – Wheatland Term Sheet dated September 3, 2026 (the "Term Sheet"), which sets forth the Parties' agreement as to wastewater treatment facility capacity fees, debt restructuring, and the funding obligations for Phase 1, Contract 3 construction, and the Parties intend that this Agreement be consistent with, and implement, the Term Sheet; and

WHEREAS, the City is the recipient of Clean Water Construction Grant Agreement No. D2505004 from the California State Water Resources Control Board (the "Grant Agreement"), which funds Contracts 1 and 2 and the conveyance components of the Project, and the Parties have entered into, or will enter into concurrently herewith, a Capacity Purchase Agreement, a Wastewater Treatment and Operations Agreement, and a Phase 1B Completion and Operations and Maintenance Pass-Through Agreement (together, the "Operative Agreements") that satisfy and flow down the requirements of the Grant Agreement and are to be transmitted to the California State Water Resources Control Board; and

WHEREAS, the WWTP Improvements (Contract 3) are not funded by the Grant Agreement and are not within the scope of the Operative Agreements, and the Parties intend by this Agreement to consolidate in a single standalone instrument all of the Parties' commitments, obligations, and funding arrangements relating to Contract 3, the City's contributions to Contract 3, the dedication of grant funds to Contract 3, the District's agency fund borrowing for Contract 3, and other matters unrelated to the grant-funded Project, so that the Operative Agreements may focus exclusively on Contracts 1 and 2; and

WHEREAS, the Parties intend that this Agreement is a funding and financing agreement between the Parties that is separate from, and is not a flow-down agreement under, the Grant Agreement; and

WHEREAS, in no event shall existing District ratepayers bear financial responsibility for the WWTP Improvements or for any improvement, cost overrun, contingency, or funding shortfall necessitated by the acceptance of City flows.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions and Relationship to Operative Agreements.

- (A)** Capitalized terms used but not defined in this Agreement have the meanings given to them in the Term Sheet and, where applicable, in the Operative Agreements. As used in this Agreement:
 - (i)** "AKT" refers to AKT Investments / AKT Development Corporation (founded by Angelo K. Tsakopoulos), which holds and manages land investments across Northern California, including a presence near the Yuba County border, which property could be the subject of future demand for wastewater conveyance and treatment services by the District with resultant capacity fee payments.
 - (ii)** "Capacity Fee" means the District's wastewater treatment facility capacity and connection fee charged for capacity in the Facility, including any repair-and-replacement (R&R) component, as further described in the Capacity Purchase Agreement.
 - (iii)** "Contract 3" or the "WWTP Improvements" means the Phase 1, Construction Contract No. 3 wastewater treatment plant reliability, redundancy, repair, replacement, and peak wet weather capacity enhancements to the Facility.

- (iv) "Fully Funded" means that binding funding commitments have been executed, funds are available for disbursement or are subject to binding loan or grant agreements, and no further approvals are required to make such funds available for construction of Contract 3.
- (v) "WWTP Capital Connection Fee Fund" means the separate capital facilities fund into which the District deposits Capacity Fees and WWTP connection fees, to be held and expended solely for WWTP capital purposes in accordance with Government Code section 66013.
- (B) This Agreement is entered into in coordination with, but is independent of, the Operative Agreements. The Parties' rights and obligations as to Contract 3 are governed exclusively by this Agreement and the Term Sheet. In the event of any conflict between this Agreement and an Operative Agreement with respect to Contract 3, the City's contributions to Contract 3, or the matters addressed herein, this Agreement controls.
- (C) This Agreement is a funding and financing agreement between the Parties only. It is separate from, and is not a flow-down agreement under, the Grant Agreement. The State Water Resources Control Board is not a party to, and is not a third-party beneficiary of, this Agreement.

2. Contract 3 Fully Funded Condition Precedent.

- (A) The District's obligation to accept, convey, and treat City wastewater flows at the Facility is expressly conditioned upon the WWTP Improvements constituting Contract 3 being Fully Funded. Contract 3 funding obligations include, without limitation, final engineering, service during construction, construction management, and contingency. As of the date of the Term Sheet, the estimated cost of Contract 3 for pre-construction and construction costs, as agreed by the Parties, is \$25,942,000, inclusive of construction management, services during construction, and contingency; final engineering costs were covered by a grant from the Yuba Water Agency. Any increase to this total must be mutually agreed by the Parties in writing. The District shall provide the City prompt written notice upon determining that funding for Contract 3 may not be secured, and the Parties shall coordinate in good faith regarding the sequencing of their respective construction so as to avoid, to the extent practicable, either Party incurring stranded construction costs before Contract 3 funding is reasonably assured.
- (B) No City wastewater will be accepted by the District until the City's proportionate share of the cost of Contract 3, as mutually agreed by the Parties, is Fully Funded.

3. District Right to Suspend; District Termination Rights.

- (A) **Right to Suspend.** Notwithstanding any other provision of this Agreement or any Operative Agreement, if at any time the District determines that funding for the

WWTP Improvements (including Contract 3) is not, or will not be, Fully Funded, and no alternative binding funding commitment for the WWTP Improvements has been secured within one hundred eighty (180) days, the District may, upon sixty (60) days' written notice, suspend its obligations under this Agreement and under the Operative Agreements as they relate to the acceptance of City flows, until adequate funding for the WWTP Improvements is secured. Such suspension shall not constitute a default.

- (B) **Termination Rights.** In addition to any other termination right in this Agreement, the District may terminate this Agreement upon sixty (60) days' written notice if: (i) funding for the WWTP Improvements (including Contract 3) is not Fully Funded and the Parties fail to identify and commit alternative funding sufficient to fully fund the WWTP Improvements within one hundred eighty (180) days; or (ii) any condition precedent in this Agreement remains unsatisfied for more than twelve (12) months following the Effective Date, through no fault of the District.
- (C) **Pre-Suspension Procedures; Reciprocal Rights.** Before exercising any suspension or termination right under this Section, the District shall provide the City written notice and the Parties shall meet and confer in good faith for a period of not less than thirty (30) days to develop a joint funding plan for the WWTP Improvements. During any period of District suspension under this Section, the City may suspend its correlative performance obligations under this Agreement. A suspension or termination under this Section arising solely from a failure of Contract 3 funding shall not constitute a breach by, or default of, either Party.

4. **City Contributions to Contract 3; Application of Capacity Fees.**

- (A) **Dedication of Capacity Fees to Contract 3.** Consistent with the Term Sheet, the full Capacity Fee paid by the City for its existing users, estimated at the District's capacity fee rate in effect at the time of final payment (currently estimated at \$8,635 per Equivalent Dwelling Unit (EDU), for a total of approximately \$15,016,265 for 1,739 EDUs), shall be deposited exclusively into the District's WWTP Capital Connection Fee Fund and applied to fund Contract 3 and capacity-related WWTP improvements. The amount, timing, and rate of the Capacity Fee, and the limitation on additional treatment capacity until the Capacity Fee is paid, are governed by the Capacity Purchase Agreement; this Section governs only the dedication and use of such funds for Contract 3.
- (B) **Additional \$2,000,000 City Contribution.** In addition to the Capacity Fees described above, should the District exhaust at least \$4,000,000 of its reserves on Contract 3, the City shall pay an additional \$2,000,000 toward the cost of Contract 3 to match the District's use of the reserves generated by the District's portion of monthly sewer rates collected to fund repair-and-replacement (R&R) capital-preservation costs. The City's payment of the \$2,000,000 contribution shall take place only after the District exhausts \$4,000,000 of its reserves on Contract 3. The Parties acknowledge that the City's \$2,000,000 contribution co-funds capacity-

preserving WWTP Improvements that directly benefit the acceptance and treatment of City flows and is matched to the District's commitment of its own R&R capital-preservation reserves to Contract 3. The City may apply the amount of this contribution as a credit against capacity fees otherwise payable for incremental treatment capacity the City elects to purchase beyond its existing users and the initial 300 homes of additional development.

- (C) **Segregation; No Diversion.** Capacity Fees and WWTP connection fees, and any R&R capital-preservation component subsequently adopted by the District, shall be deposited exclusively into the District's WWTP Capital Connection Fee Fund, shall be reserved (in a segregated subaccount, as applicable) for WWTP capital improvements, including Contract 3 and capacity-related WWTP improvements, consistent with Government Code section 66013, and shall not be pledged, assigned, or applied to repay the Tribal loan, the County of Yuba loan, the USDA loan, or any other debt.

5. Dedication of EDA and Other Grant Funds. Consistent with the Term Sheet, any Economic Development Administration (EDA) grant obtained by the District in connection with the Project shall be dedicated solely to fund Contract 3 and capacity-related improvements to the wastewater treatment facilities. The City agrees to work in partnership with the District in submitting any and all applications for such grant funding and supports the goal of wastewater treatment facility improvements.

6. District Agency Fund Borrowing for Contract 3.

- (A) **Authorization.** To fund Contract 3 pending receipt of Capacity Fees, grants, and loan proceeds, the District may, in its discretion and to the extent permitted by law, borrow from or advance monies among its own agency funds, reserves, and capital accounts (including, as applicable, inter-fund borrowing from the District's water or other enterprise funds) and use its R&R capital-preservation reserves, in each case for the purpose of funding Contract 3 and the WWTP Improvements. Any such inter-fund borrowing shall be documented by the District, shall bear simple interest at a rate equal to the then-current rate of return of the Local Agency Investment Fund (LAIF), or the District's actual cost of funds for amounts drawn from other pre-existing District investment funds, and shall be repaid from Capacity Fees, grant funds dedicated to Contract 3, the City's contributions under Section 4, and other funds lawfully available for Contract 3.
- (B) **Matching Reserve Draw.** The District's use of at least \$4,000,000 of its R&R reserves for Contract 3 shall trigger the City's \$2,000,000 matching contribution as provided in Section 4(B). The District shall account for its reserve draws and provide the City reasonable documentation supporting the matching contribution trigger.
- (C) **Reimbursement from Grant and Loan Proceeds.** To the extent Contract 3 costs advanced by the District from its agency funds subsequently become eligible for

reimbursement from any grant or loan dedicated to Contract 3, the District shall apply such reimbursements to restore the borrowing agency funds and reserves.

7. Joint Approval of Pooled Funds. Consistent with the Term Sheet, the Parties shall consult and jointly approve the use of any pooled funds on Contracts 1, 2, and 3, including contract management and contingency funds.

8. Conveyance Fee Remittance Following Loan Repayment. Consistent with the Term Sheet, the City acknowledges that, once all loans from the County of Yuba, the Yuba Water Agency, AKT, the USDA, the Enterprise Rancheria Tribe, and any other wastewater debt are paid back in full, the portion of the City's conveyance fee attributable solely to capacity in the District-owned conveyance facilities constructed under Contract 2, for all capacity subsequent to that point, will be remitted to the District for future growth use. A debt service plan to address the loans from Contracts 1 and 2 shall be prepared by a third party.

9. No District Ratepayer Responsibility. In no event shall existing District ratepayers bear financial responsibility for the WWTP Improvements or for any improvement, cost overrun, contingency, or funding shortfall necessitated by the acceptance of City flows. No District operating revenues, reserves, or ratepayer charges shall be required to fund any such cost without the approval of the District's Board of Directors.

10. Cost Overruns and Funding Shortfalls. The District shall be responsible for identifying and securing additional funding to cover any cost overrun of Contract 3. No Party shall be required to fund any Contract 3 cost, cost overrun, contingency, or funding shortfall from existing operating revenues, reserves, or ratepayer charges without that Party's express written consent, approved by its governing body. If a funding shortfall is identified, the Parties shall meet and confer within thirty (30) calendar days to determine the source and allocation of additional funding, and the District shall not be required to commence or continue construction of Contract 3 during any period in which a funding shortfall affecting the WWTP Improvements remains unresolved. A suspension or termination under Section 3 or this Section arising from a failure of Contract 3 funding shall not constitute a breach by either Party, and each Party shall bear its own costs incurred in connection with such suspension or termination, without prejudice to the Parties' agreed proportional allocation of Project costs.

11. Term. This Agreement shall be effective as of the Effective Date and, consistent with the Term Sheet, shall continue until the later of (a) completion and full funding of Contract 3 and the satisfaction of all payment obligations of the Parties hereunder, and (b) the date on which all loans and advances described in Sections 6 and 8 have been repaid in full, unless earlier terminated as provided herein.

12. Miscellaneous.

(A) Entire Agreement as to Contract 3. This Agreement, together with the Term Sheet, constitutes the entire agreement of the Parties pertaining to the funding and financing of Contract 3 and supersedes all prior and contemporaneous agreements

concerning the same, including the corresponding provisions removed from the Operative Agreements.

- (B) **Amendment.** This Agreement may be modified or amended only by a writing duly authorized and executed by both Parties.
- (C) **Governing Law; Venue.** This Agreement shall be governed by the laws of the State of California. Any action to interpret or enforce this Agreement shall be brought in the Superior Court of the State of California in the County of Yuba.
- (D) **No Third-Party Beneficiaries.** This Agreement does not create, and shall not be construed to create, any rights enforceable by any person or entity that is not a Party, including the State Water Resources Control Board, any lender, or any landowner, developer, resident, or ratepayer.
- (E) **Counterparts.** This Agreement may be signed in any number of counterparts, and electronic signatures shall be binding in the same manner as originals.

IN WITNESS WHEREOF, the Parties have executed this Agreement to be effective as of the Effective Date.

OLIVEHURST PUBLIC UTILITY
DISTRICT

By: _____
Board President

Date Signed: _____

ATTEST:

By: _____
Secretary

APPROVED AS TO FORM:

By: _____
Counsel for the District
CITY OF WHEATLAND

By: _____
Mayor

Date Signed: _____

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
Counsel to the City