

MEMORANDUM OF UNDERSTANDING

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This Memorandum of Understanding ("**MOU**") is dated April 28, 2026 and is between COUNTY OF YUBA ("**County**"), OLIVEHURST PUBLIC UTILITY DISTRICT ("**OPUD**"), and CITY OF WHEATLAND ("**Wheatland**").

The purpose of this MOU is to set forth how the parties will collectively fund a regional wastewater project known as the South County Infrastructure Project (the "**Project**").

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.

Wheatland provides wastewater services within its 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 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 vulnerable to potential flood risks.

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.

The parties 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 to handle Wheatland's wastewater.

Yuba Water Agency, Wheatland, OPUD, and the County have previously funded aspects of the Project's design, construction, engineering and environmental analysis.

Wheatland and OPUD applied to the State Water Resources Control Board for Project funding grants. The State Water Resources Control Board has indicated it intends to make a \$75 million award to Wheatland for the Project, but the State Board has not made a final grant award.

County desires to assist in funding the Project in furtherance of the County's General Plan.

1 The parties have completed their obligations under the California Environmental Quality
2 Act ("**CEQA**"). On February 28, 2023, Wheatland certified an Environmental Impact Report
3 for the Project (SCH 2021110022) under CEQA. On April 20, 2023, OPUD certified a
4 Negative Declaration (SCH 2023030233) for the Project.

5 The parties hereby agree:

6 Article 1
7 PROJECT FUNDING

8 1.1. **Project Contracts.** ¶(a) The Project consists of two sets of capital
9 improvements that are expected to be constructed under separate construction contracts
10 and proceed generally concurrently. The two construction contracts and their estimated
11 not-to-exceed costs are:

- 12 (1) Wheatland Pump Station and Pipelines ("**Construction Contract No. 1**"), confirmed
13 by bid to cost \$54,200,000 and further described in Attachment A;
- 14 (2) OPUD Pump Station and Pipelines ("**Construction Contract No. 2**"), estimated to
15 cost \$49,400,000 and further described in Attachment B;
- 16 (3) Construction Management of Contracts No. 1 & 2 estimated at, \$9,000,000 plus a
17 contingency for Contracts No. 1 & 2 of \$3,000,000, generate an estimated total cost
18 of \$115,600,000 and,

19 (b) The parties anticipate that these capital improvement cost estimates
20 will be updated following execution of this MOU. If these updated cost estimates exceed
21 the estimated costs in subsection (a), the parties will meet and confer with each other to
22 prepare and execute the necessary amendments to this MOU to incorporate these
23 updated cost estimates.

24 1.2. **Construction Contract No. 1.** ¶(a) The parties agree that the Construction
25 Contract No. 1 improvements will be funded by the following sources:

- 26 (1) Wheatland will contribute \$5,200,000 from existing cash on hand.
- 27 (2) A portion of the anticipated State Water Resources Control Board grant, subject to
28 the Board making a final grant award and these parties approving one or more
29 grant agreements for the Project.
- 30 (3) A County loan with the total amount available to Contracts No. 1 & 2 not to exceed
31 \$10,000,000. Article 3 states the key material loan terms. This loan amount is subject
32 to reduction if any of the parties generates additional funds from grants or any other
33 available sources available for the Project.

1 (4) Collection of advance payment of conveyance fees paid by private entities that total
2 the amount necessary to meet the funding needed for Contract No. 1 expenses.

3 (b) Wheatland is responsible for designing, constructing, operating, and
4 maintaining the improvements.

5 1.3. **Construction Contract No. 2.** (a) The parties anticipate that the Construction
6 Contract No. 2 improvements will be funded by the following sources:

7 (1) A portion of the anticipated State Water Resources Control Board grant, subject to
8 the Board making a final grant award and these parties approving one or more
9 grant agreements for the Project.

10 (2) A County loan with the total amount available to Contracts No. 1 & 2 not to exceed
11 \$10,000,000. Article 3 states the key material loan terms. This loan amount is subject
12 to reduction if any of the parties generates additional funds from grants or any other
13 available sources available for the Project.

14 (3) Collection of advance payment of conveyance fees paid by private entities that total
15 the amount necessary to meet the funding needed for Contract No. 2 expenses.

16 (b) OPUD is responsible for designing, constructing, operating, and
17 maintaining the improvements, except for the portion of the improvements to be
18 maintained by Wheatland, for which Wheatland will be solely responsible for maintenance.

19 1.4. **Conditions Precedent.** (a) The parties' obligations to fund the Project are
20 expressly subject to the following conditions precedent:

21 (1) the State Water Resources Control Board executing final agreements to award
22 approximately \$75,000,000 in grant funds to OPUD, Wheatland, or both, for the
23 Project;

24 (2) Wheatland's acceptance of a bid or bids for construction of the Construction
25 Contract No. 1 improvements for less than or equal to the parties' estimated
26 construction costs for the improvements;

27 (3) OPUD's acceptance of a bid or bids for construction of the Construction Contract
28 No. 2 improvements for less than or equal to the parties' estimated construction
29 costs for the improvements;

30 (4) execution of the loan agreements described in Article 3;

31 (5) Wheatland and OPUD obtain binding funding commitments (e.g., advance payment
32 of fees, self-funding, grants, or loans) that are collectively sufficient to fund all of the
33 estimated costs of Construction Contracts Nos. 1 and 2.

1 Article 2
2 CONNECTION FEES AND SERVICE CHARGES

3 2.1. **Conveyance Fees.** (a) No later than completion of the Construction Contract
4 No. 1 or 2 improvements, Wheatland and OPUD will adopt and charge new development
5 a connection fee for capacity in the Project's facilities (conveyance fee). The conveyance
6 fee study supporting the fee will include an analysis allocating the share of the fee that is
7 related to facilities funded by the County loan described in Article 3 and other loans as
8 described in Article 4.

9 (b) No later than completion of the Contract No. 1 improvements,
10 Wheatland will adopt and charge new development a connection fee for capacity in the
11 OPUD WWTP that passes through the connection fee that OPUD will also adopt.

12 2.2. **Increases for County Loan Interest.** Wheatland and OPUD shall update the
13 conveyance fees described in the prior sections to account for any increase in County
14 loans' interest as described in Article 3.

15 Article 3
16 COUNTY FUNDING

17 3.1. **Terms.** County, OPUD, and Wheatland will negotiate and enter into a loan
18 agreement that includes the following key material terms:

- 19 (1) A loan in an amount that does not exceed \$10,000,000 for construction of
20 Construction Contracts No. 1 and 2;
- 21 (2) Wheatland and OPUD will repay the loan by collecting conveyance fees and
22 transmitting to County the share of fees allocated to facilities funded by the County
23 loan as described in subsection 2.1(a) for Construction Contract No. 1 and 2;
- 24 (3) Wheatland and OPUD shall also repay the loan with any bonds, grants, or any other
25 available funding sources identified by County, OPUD, or Wheatland (including, but
26 not limited to prepaid conveyance connection fees collected pursuant to Section
27 4.2, and funds acquired under the terms of any development agreements entered
28 into by OPUD or Wheatland), subsequently acquired by OPUD or Wheatland that
29 could otherwise have been used to reduce the amount of the County loan if said
30 funds were available to OPUD or Wheatland at the time of the execution of this
31 MOU;
- 32 (4) all the common terms listed in section 3.22.

33 3.2. **Common Terms.** The loan agreements between County, OPUD, and
34 Wheatland will include the following key material common terms:

- 35 (1) the loan will remain outstanding perpetually until paid in full or forgiven;

- 1 (2) the lender's share of conveyance fees will be transmitted to the lender within 30
2 days of collection;
- 3 (3) the lender's share of all other funds collected by OPUD or Wheatland for the
4 purpose of repaying the principal and any accrued interest for the loans described
5 in section 3.1 shall be transmitted to the lender within 60 days of collection;
- 6 (4) the loan will accrue simple interest at the County's pool rate.
- 7 (5) the loan does not encumber any existing revenues of the parties;
- 8 (6) if a party forms an Enhanced Infrastructure Financing District to raise revenue to
9 fund infrastructure that includes any or all of the Construction Contract No. 1 or 2
10 facilities, the portion of revenue attributable to said facilities shall be paid to the
11 lender.
- 12 (7) if a party forms a community facilities district and issues special tax bonds for new
13 development that relies on the Project improvements, and should a portion of the
14 bond proceeds be used to prepay any connection fees otherwise pledged to the
15 lender, that portion of those bond proceeds shall be paid to the lender;
- 16 (8) if the parties issue bonds secured by sewer service charges from new special sewer
17 service areas, and bond proceeds are used to provide funding for capacity for new
18 development, then at least 20% of such proceeds used for new development
19 capacity must be used to repay the loan;

20 3.3. **Loan Accounting.** County will calculate the loan balance and provide an
21 updated balance to the parties at least once each fiscal year.

22 Article 4
23 OTHER FUNDING

24 4.1. **Prepaid Fees.** (a) OPUD or Wheatland may enter into prepaid Conveyance
25 Connection fee and loan agreements with willing property owners within OPUD's or
26 Wheatland's service area who desire to prepay for future wastewater conveyance system
27 connections. The funds generated from these potential agreements that exceed the
28 amounts necessary to complete Contracts No. 1 and 2 will first be used to reduce the
29 principal amount of the Enterprise loan and then the County loan prior to any other use.

30 (b) Any prepaid Conveyance Connection fee agreements will include the
31 following key material terms:

- 32 (1) the purchaser shall be entitled to connect to Wheatland's wastewater conveyance
33 system following completion of the Project, subject to available OPUD WWTP
34 capacity at the time of connection to the Project and the terms of this section 4.1;

- 1 (2) the prepaid Conveyance Connection fee shall be considered appurtenant to the
2 purchaser's property and evidenced by documentation recorded by OPUD or
3 Wheatland against the benefitted property;
- 4 (3) the purchaser may transfer a prepaid Conveyance Connection fee to another user,
5 subject to written consent of OPUD or Wheatland if the fee is transferred separately
6 from the purchaser's property. Such transfer shall be evidenced by documentation
7 recorded by OPUD or Wheatland against the property releasing the interest in the
8 prepaid Conveyance Connection fees and against the property receiving the
9 interest in the prepaid Conveyance Connection fees. Without such written consent,
10 neither Wheatland, nor OPUD is obligated to honor any prepaid Conveyance
11 Connection fee if not used by the owner to whom it was originally issued. OPUD or
12 Wheatland shall record documentation of the release of some or all of the prepaid
13 connection fees, as appropriate, at the time of connection of the subject property to
14 the Project; and,

15 (c) Wheatland shall not sell more than the equivalent of 5,000 EDU in
16 prepaid connections.

17 (d) Wheatland shall provide notice and a copy of all documents recorded
18 pursuant to this Section 4.1 to OPUD as set forth in Section 7.9.

19 4.2. **Loans.** (a) OPUD and Wheatland may enter into loan agreements with willing
20 lenders to fund the Project. Any funds generated by these loan agreements in excess of
21 the \$10,000,000 loan from Enterprise Rancheria will reduce the amount of loan principal to
22 be lent by the County under the County loans described in Article 3.

23 (b) Any loan agreements under this section shall include the following
24 significant terms:

25 (1) the borrower, OPUD or Wheatland, will repay the County loan when it receives
26 future conveyance fees for use of the Project; and

27 (2) all of the common loan terms in section 3.22.

28 Article 5
29 CAPACITY

30 5.1. **OPUD WWTP Capacity.** OPUD will monitor treatment capacity for its WWTP
31 on at least a semi-annual basis and report the results to the parties. OPUD will commence
32 work to expand treatment capacity as needed on a best-efforts basis.

33 5.2. **Transmission Capacity.** Wheatland will monitor capacity in the Construction
34 Contract No. 1 transmission improvements on at least a semi-annual basis and report the
35 results to the parties. Wheatland will commence work to design and construct a second
36 transmission line as needed on a best-efforts basis.

1 Article 6
2 OTHER OBLIGATIONS

3 6.1. **Quarterly Reports.** Wheatland must submit quarterly reports to County
4 outlining progress made during the quarter for each of the Project tasks. Each quarterly
5 report shall provide a summary of expenses during the quarter and the grant in total.
6 Quarterly reports are due within 45 days after the end of each quarter.

7 6.2. **Final Report.** Wheatland shall submit a final report to the County. The final
8 report shall demonstrate the beneficial use of County funds and successful completion of
9 the Project. The final report is due within 60 days of the Termination Date.

10 6.3. **Project Records.** (a) Wheatland shall keep and maintain accurate
11 bookkeeping records, accounts, and documents related to the payment of vendors,
12 contractors, suppliers, and others who perform the work on the Project, including all
13 invoices, receipts, canceled checks, contracts, purchase orders, and other source
14 documents.

15 (b) These records shall be retained for a period of not less than three years
16 from the final grant payment. These records shall be accessible and available for
17 inspection or audit by County, or by its employees, accountants, attorneys or agents, at
18 reasonable times and upon reasonable notice.

19 (c) As required by Government Code section 8546.7, this MOU and
20 performance and payments under it are subject to examination and audit by the State
21 Auditor General for three years following final disbursement by County.

22 6.4. **Legal Compliance.** (a) OPUD and Wheatland shall complete the Project in
23 compliance with all applicable federal, state and local laws, regulations and codes,
24 including acquisition of and compliance with all required permits, licenses, entitlements
25 and authorizations.

26 (b) OPUD and Wheatland shall comply with the terms of any CEQA
27 mitigation, monitoring, and reporting requirements imposed by any CEQA agency for the
28 Project.

29 6.5. **Labor Code Compliance.** OPUD, Wheatland, and any parties they contract
30 with for use of County funds, including contractors, subcontractors, and subgrantees, shall
31 comply with the Labor Code provisions concerning payment of prevailing wage rates,
32 penalties, employment of apprentices, hours of work and overtime, keeping and retention
33 of payroll records, and other requirements applicable to public works as may be required
34 by the Labor Code and applicable state regulations. See California Labor Code division 2,
35 part 7, chapter 1 (sections 1720-1861), which are incorporated in this MOU by this
36 reference.

Article 7
DISPUTES AND TERMINATION

7.1. **Term.** The term of this MOU runs until _____ (“**Termination Date**”) unless earlier terminated by mutual agreement or by County under section 7.3.

7.2. **Inspections.** County reserves the right to inspect any portion of the Project to determine whether it is being performed in accordance with this MOU. County may withhold payments if it finds a violation of this MOU until the party in violation remedies the violation.

7.3. **Termination by County.** County may terminate this MOU by providing notice of termination at any time prior to State Water Resources Control Board entering into one or more grant agreements for the Project as described in subsection 1.2(a).

7.4. **Default by a Party.** (a) A party will be in default under this MOU if any of the following occur:

- (1) substantial breaches of this MOU by a party;
- (2) a party making any false statement with respect to this MOU, or the information submitted to another party to obtain this MOU;
- (3) a party files or there is filed against a party a bankruptcy petition (unless, in the case of a petition filed against a party, the same is dismissed or stayed within 60 days of filing);
- (4) a party makes an assignment for the benefit of creditors;
- (5) a party becomes insolvent or a material adverse change in a party’s financial condition occurs;
- (6) a party applies for or consents to the appointment of a receiver, trustee, or conservator, or such appointment is made without the party’s consent and is not vacated within 60 days; or
- (7) a party files a petition or resolution of application for reorganization.

(b) A non-defaulting party will provide notice of default to a party and provide the defaulting party at least ten calendar days to cure the default. If the defaulting party fails to cure the default within the time prescribed, the non-defaulting party may terminate this MOU.

7.5. **Mandatory Mediation.** If a dispute arises out of or relates to this MOU, and the dispute cannot be settled through negotiation, the parties must first try in good faith to resolve the dispute through non-binding mediation before resorting to litigation. If any

1 party commences an action without first submitting the matter to mediation, or any party
2 refuses to mediate after a request has been made, then that party shall not be entitled to
3 recover attorneys fees even if they would otherwise be entitled to such fees.

4 7.6. **Consequential Damages Waiver.** In no event will either party be liable for
5 any loss of profit, indirect, incidental, special, punitive, or consequential damages arising
6 out of or relating to this MOU.

7 7.7. **Mutual Indemnification.** Each party must indemnify, defend, protect, and
8 hold harmless each other party, and its officers, employees, volunteers and agents from
9 and against any and all liability, losses, claims, damages, expenses, demands, and costs
10 (including but not limited to, attorney, expert witness and consultant fees and litigation
11 costs) of every nature arising out of each party's performance of the Project and caused by
12 the negligent or willful act or omission of the party and its contractors or subcontractors or
13 their employees, agents, and subcontractors, except where caused by the active
14 negligence, sole negligence or willful misconduct of another party or as otherwise
15 provided or limited by law. The parties' obligations under this provision shall survive the
16 termination of this MOU.

17 7.8. **Attorneys Fees.** If any legal action is brought to enforce or construe this
18 MOU, the prevailing party shall be entitled to an award of reasonable attorney's fees,
19 expert witness and consultant fees, litigation costs, and costs of suit.

20 7.9. **Notices.** (a) Except as otherwise provided, any notice, demand, or other
21 communication required or permitted to be given under this MOU must be in writing and
22 delivered in at least one of the following manners:

- 23 (1) in person;
- 24 (2) by prepaid, first-class U.S. mail;
- 25 (3) by a nationally recognized commercial overnight courier service that guarantees
26 next day delivery and provides confirmation of delivery; or,
- 27 (4) by email with receipt confirmed by the other party.

28 (b) Notices mailed to County must be addressed to Yuba County, Attn:
29 County Administrator, 915 8th Street, Suite 115, Marysville, CA 95901.

30 (c) Notices mailed to OPUD must be addressed to OPUD, Attn: General
31 Manager, 1970 9th Avenue, Olivehurst, CA 95961.

32 (d) Notices mailed to Wheatland must be addressed to Wheatland, Attn:
33 City Manager, 111 C Street, Wheatland, CA 95962.

1 Article 8
2 MISCELLANEOUS

3 8.1. **Public Information.** The parties' public communications teams will
4 coordinate concerning the public information strategy for the Project. County may use the
5 other parties' names, logos, information concerning the Project, and other materials made
6 available to County to provide the public with information concerning the Project and
7 County's participation in the Project.

8 8.2. **Enclosures.** The following enclosures are attached to this MOU and
9 incorporated in full:

10 (1) Attachment A, Scope of Work for Construction Contract No. 1;

11 (2) Attachment B, Scope of Work for Construction Contract No. 2

12 8.3. **Entire Agreement; Amendment.** The parties intend this writing to be the
13 sole, final, complete, exclusive and integrated expression and statement of the terms of
14 their contract concerning the Project. This MOU supersedes all prior oral or written
15 negotiations, representations, contracts or other documents that may be related to this
16 MOU, except those other documents (if any) that are expressly incorporated in this MOU.
17 This MOU may be amended only by a subsequent written agreement approved and
18 signed by all parties.

19 8.4. **Assignment.** This MOU and all rights and obligations under it are personal to
20 the parties. The MOU may not be transferred, assigned, delegated or subcontracted in
21 whole or in part, whether by assignment, subcontract, merger, operation of law or
22 otherwise, by any party without the prior written consent of the other parties. Any transfer,
23 assignment, delegation, or subcontract in violation of this provision is null and void and
24 grounds for another party to terminate the MOU.

25 8.5. **No Third-Party Beneficiaries.** This MOU is intended solely to benefit the
26 parties and is not for the benefit of, and does not confer any rights on, any non-parties.

27 8.6. **Signatories.** Each party warrants that the person signing this MOU is
28 authorized to act on behalf of the party for whom that person signs. This MOU may be
29 executed in two or more counterparts, each of which shall be deemed an original, but all
30 of which together shall constitute the same instrument. Counterparts may be delivered by
31 facsimile, electronic mail (including PDF or any electronic signature complying with
32 California's Uniform Electronic Transactions Act (Cal. Civ. Code, §1633.1, et seq.) or any
33 other applicable law) or other transmission method. The parties agree that any electronic
34 signatures appearing on the MOU are the same as handwritten signatures for the purposes
35 of validity, enforceability, and admissibility.

36 The parties are signing this MOU effective on the date stated in the introductory clause.

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YUBA COUNTY

By: 
Chair, Board of Supervisors, Seth Fuhrer

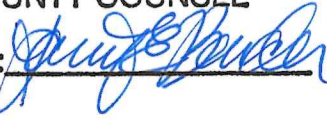
OLIVEHURST PUBLIC UTILITY DISTRICT

By: _____
Chair, Olivehurst Public Utility District

CITY OF WHEATLAND

By: _____
Mayor, City of Wheatland

APPROVED AS TO FORM
COUNTY COUNSEL

BY: 

Attachment A

Scope of Work for Construction Contract No. 1

- 1
- 2
- 3 (1) Wastewater force main - Segment 1 (8,768 linear feet (LF)).
- 4 (2) Wastewater force main - Segment 2 (13,138 LF).
- 5 (3) Wastewater force main - Segment 3 (18,910 LF).
- 6 (4) Stormwater culvert replacement.
- 7 (5) Water main extension (4,000 LF) and booster pump station.
- 8 (6) Pipeline erosion control.
- 9 (7) Pump Station No. 1 (including influent sewer modifications, existing PS demolition,
10 storage tanks, control building, odor control, generator, yard piping, yard
11 improvements and landscaping).
- 12 (8) Pump Station No. 2 (including sewer and force main, influent splitter, biofilter,
13 storage tanks, equalization tanks (2), lab building, maintenance building, well, water
14 main, water storage tank, booster PS, yard piping, yard improvements and
15 landscaping).
- 16 (9) Pump Station No. 3 (including control building, sewer and force main, control
17 building, yard piping, yard improvements and landscaping).
- 18 (10) Control panel and SCADA upgrades at existing lift stations.

Attachment B
Scope of Work for Construction Contract No. 2

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- 3 (1) Wastewater force main - OPUD Access Road (1,400 LF).
- 4 (2) Wastewater force main - Mary Avenue (3,700 LF).
- 5 (3) Wastewater force main - McGowan Parkway (6,900 LF).
- 6 (4) Trenchless crossing SR70 at McGowan Parkway.
- 7 (5) Wastewater force main - Olive Avenue (1,100 LF).
- 8 (6) Trenchless crossing SR 65 (1,100 LF).
- 9 (7) Wastewater force main - Rancho Road (20,700 LF).
- 10 (8) Wastewater force main - Shimer Road (2,100 LF).
- 11 (9) Trenchless crossing SR 65 (900 LF).
- 12 (10) Trenchless crossing - Hutchinson Creek.
- 13 (11) Trenchless crossing Reeds Creek.
- 14 (12) Wastewater force main - Slaughterhouse Road (2,000 LF).
- 15 (13) Pump Station 21 (including grading, influent sewer and manhole, wet wells A &B,
16 flushing system, odor control beds, piping, force main, valves and fittings, yard
17 piping and improvements).
- 18 (14) Two trenchless crossings of Kimball Creek at Rancho Road (HDD) and Virginia Creek
19 at Rancho Road (Pipe RAM).
- 20 (15) Existing Pump Station No. 2 rehabilitation and force main connection.