
APPENDIX A

Memorandum Of Understanding between
Calaveras Unified School District
and Calaveras County Water District

**MEMORANDUM OF UNDERSTANDING BETWEEN
CALAVERAS UNIFIED SCHOOL DISTRICT
AND
CALAVERAS COUNTY WATER DISTRICT**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into this 13th day of December, 2018 (“Effective Date”), by and between the Calaveras Unified School District (hereinafter “CUSD”), a California public school district duly organized and existing under Chapter 1 of Division 3 of Title 2 of the Education Code of the State of California, and the Calaveras County Water District (hereinafter “CCWD”), a California water district duly organized and existing under Part 2 of Division 13 of the California Water Code (either of which is individually a “Party,” and which are collectively “the Parties”).

WHEREAS, CUSD owns and operates a private wastewater treatment facility on its Jenny Lind Elementary School property (hereinafter the “JLE Facility”), which meets the CUSD’s wastewater treatment and disposal requirements from the Regional Water Quality Control Board (RWQCB); and

WHEREAS, the JLE Facility has reached the end of its useful life and requires significant retrofit in order to continue reliable wastewater treatment as required by the RWQCB; and

WHEREAS, CUSD is eligible to receive a grant from the State Revolving Fund (hereinafter “SRF”) for 100% of the costs of all planning and construction to either retrofit the JLE Facility or to Regionalize with another publicly owned wastewater plant in the area (to an \$8 million maximum); and

WHEREAS, after careful study of these two alternatives, and in close collaboration with CCWD, the CUSD’s preferred approach is to regionalize with the CCWD by way of new lift stations and a new pipeline to the existing CCWD wastewater plant (hereinafter the “Project”), and ultimately removing the JLE Facility from active service; and

WHEREAS, the JLE Facility is estimated to require a maximum month average daily flow of 5,400-gpd or 36 equivalent single family units (esfu’s) which CCWD requires a one-time payment by CUSD of capacity fees in the amount of \$700,056 (36 esfu x \$19,446/esfu) to the La Contenta system to be made in order for the Project to proceed; and

WHEREAS, the Parties contemplate that, upon completion of the Project, the CUSD would transfer the ownership of the newly constructed lift stations and pipelines to the CCWD, and CCWD would undertake all compliance and operational responsibilities attendant to the JLE Facility; and

WHEREAS, the Parties wish to collaborate in the Project in accordance with the terms and conditions set forth in this MOU.

NOW, THEREFORE, the Parties hereto agree as follows:

1. The recitals and exhibits attached hereto, if any, are hereby accepted and incorporated into this MOU.
2. CUSD shall be the lead agency for all grant funding requests and CCWD shall cooperate, as necessary and appropriate, in this process. The Project shall be contingent upon CUSD securing full funding from the SRF for all costs of the Project. Absent said funding, this MOU shall terminate without liability of either Party as to the other.
3. Each party shall designate in writing a main contact person for regular Project communications at the time this MOU is executed.
4. SRF must approve all Project contract documents in order for a funding award to be made. CUSD shall be the lead in preparing construction contract documents that are consistent with SRF guidelines.
5. All documents prepared for the procurement of a Project contractor shall be subject to approval by the respective governing bodies of CUSD and CCWD. The Parties agree that time is of the essence in obtaining said approvals throughout the term of this MOU.
6. CUSD shall retain necessary consultant(s) to design the Project. However, the Parties agree that the work of the Project shall comply with CCWD engineering standards and all applicable local, state, and federal requirements, and that CCWD shall have the right to review Project design documents and submit comments during the Project's design phase.
7. CUSD shall procure a Project contractor in accordance with applicable public project competitive bidding requirements.
8. CUSD shall, at its sole cost, provide all project management, construction management, and quality control for the Project. CCWD is welcome to attend any and all construction management meetings at its own costs.
9. Upon completion of the Project, CUSD agrees to transfer to CCWD all newly constructed assets ("Asset Transfer"), necessary access and utility easements including deeds to real property upon which sewer lift stations, pipelines and associated facilities are situated. The Parties shall in good faith prepare any documents and take all actions needed to accomplish said Asset Transfer. Such Asset Transfer, access and easements shall allow unencumbered and unobstructed access by CCWD to said facilities without prohibitions or restrictions regarding operation, maintenance, upgrades, improvements and reconstruction. CCWD will make every effort to operate and maintain said facilities in a manner that minimizes impacts and is compatible with school schedules, classroom activities and student safety. CCWD will notify CUSD in the event of any emergencies or non-routine activities relating to its work on the subject facilities.
10. Upon completion of the Asset Transfer, CCWD shall assume full and complete responsibility for the wastewater operation and infrastructure beginning at the inlet to the new lift station (i.e., the "interceptor") including new lift stations, force mains and associated buildings, equipment and electrical systems. CUSD shall have no ownership

interest in, or responsibility for, infrastructure for transmission, treatment or disposal of wastewater from the JLE. CUSD shall, however, continue to own the pre-existing private sewer lateral at the JLE. CUSD shall be responsible for all sewer collection systems within the JLE facility ground including all sewers and manholes serving all buildings and structures on the site. CUSD responsibility shall end at the point the JLE facility's on-site sewer first enters the interceptor lift station.

11. Upon completion of the transfer of assets provided for in section 9, above, CUSD will be responsible to properly abandon its regulatory permit from the RWQCB.
12. CUSD shall further relinquish any and all interest in future connections to the wastewater infrastructure that CCWD may authorize, as long as the wastewater capacity of JLE School is the primary design consideration to ensure continuous service at its full build-out along the wastewater pipeline. That is, the Parties agree that JLE School has priority rights to the full capacity assigned to it in the Project design for the new pipeline, treatment plant, and disposal and thus has a priority right to use 100% of its assigned capacity.
13. The Parties agree that CUSD shall have a right to acquire wastewater capacity from CCWD at a one-time capacity fee of \$700,056 (or 36 esfu's x \$19,446/esfu) based upon standard fees effective July 1, 2018 until such time as the current Project application and funding are approved by SRF. CCWD will reserve capacity for CUSD for the duration of the subject SRF project application and subsequent construction until startup and operation of the facilities. If the current Project under consideration is not approved by the SRF, CUSD will relinquish any reservation of capacity or agreed fees previously granted by CCWD.
14. CUSD shall pay standard bi-monthly rates same as other CCWD customers subject to change and increases adopted by general Prop.218 proceedings. The initial bi-monthly rate shall be based on 20 esfu's (e.g. for 2019 a bi-monthly rate of \$187.23 per esfu or \$3,744.60 is applicable). Thereafter, according to CCWD standard policy, commercial accounts can be periodically reviewed every two (2) years, or after improvements are made to the school, or when school enrollment significantly changes (increases or decreases), in order to adjust bi-monthly charges for wastewater usage. Unless subsequently amended by both parties in writing, the following schedule shall apply:

Max. Month Average Daily Flow (gpd)	Equivalent Single Family Unit Flow (gpd/esfu)	Equivalents (Bi-monthly Rate Factor)
3,000	150	20
3,300	150	22
3,600	150	24
3,900	150	26
4,200	150	28
4,500	150	30
4,800	150	32
5,100	150	34
5,400	150	36

15. Upon Project completion and Asset Transfer to CCWD, the Parties agree to enter into a long-term agreement for service under which CCWD will continue to provide CUSD sewer service for JLE School at its standard bi-monthly rates, as stated above. This service agreement may have a temporary provision for an initial startup and optimization period at an adjusted annual cost that takes into consideration the value, beyond normal capacity fees, and benefits of a regionalization project recognized by CCWD under this MOU. The Engineering team will continue project design discussions after the SRF funding commitment is in place (likely in spring 2019).
16. Each Party, at its sole cost and expense, shall procure and maintain such policies of general and other insurance as shall be necessary to insure its employees, agents and affiliates against any claim or claims for damages arising by reason of personal injuries or death occasioned directly or indirectly in connection with the performance of each Party's obligations under this MOU, the use of any property and facility.
17. During the project period funded by the State Revolving Fund (SRF), CCWD shall indemnify, hold harmless and defend CUSD and each of its officers, officials, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CUSD or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising directly or indirectly from the negligent or intentional acts or omissions of CCWD or any of its officers, directors, board members, employees, agents or volunteers in the performance of this MOU; provided nothing herein shall constitute a waiver of governmental immunities including California Government Code Section 810 et seq.
18. During the project period funded by the State Revolving Fund (SRF), CUSD shall indemnify, hold harmless and defend CCWD and each of its officers, directors, trustees, employees, agents and volunteers from any and all loss, liability, fines, penalties, forfeitures, costs and damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by CCWD or any other person, and from any and all claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising directly or indirectly from the negligent or intentional acts or omissions of CUSD or any of its officers, officials, employees, agents or volunteers in the performance of this MOU; provided nothing herein shall constitute a waiver of governmental immunities including California Government Code Section 810 et seq.
19. This MOU contains the entire agreement between the Parties with respect to the matters covered herein, and supersedes all prior agreements, written or oral, between the Parties. No other agreement, statement, or promise made by any Party not contained herein shall be binding or valid. This MOU shall be construed as one document and all of the agreements herein are in exchange for and in consideration of the commitments of each and all of the Parties herein as set out above.

20. This MOU may be amended only by a writing signed by the Parties.
21. Should any provision of this MOU be declared or determined by any court of competent jurisdiction to be illegal, invalid, or unenforceable, the legality, validity, and enforceability of the remaining parts, terms, or provisions shall not be affected thereby and said illegal, unenforceable, or invalid part, term, or provision shall be deemed not to be part of this MOU.
22. This MOU shall be construed, determined and enforced in accordance with the laws of the State of California with venue in Calaveras County, California.
23. The Parties agree that each Party has independently reviewed this MOU; and that any rules of construction to the effect that ambiguities are to be resolved against the drafting Party shall not apply in any interpretation of this MOU or any amendments or exhibits thereto.
24. This MOU may be executed in any number of counterparts, each of which shall be deemed an original and all of which shall constitute together one and the same instrument.
25. If either party is required to commence any proceeding or legal action to enforce or interpret any term, covenant or condition of this MOU, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.
26. CUSD and CCWD are acting as independent contractors. Neither party, nor any of its officers, associates, agents, or employees shall be deemed an employee, partner, or agent of the other for any purpose.
27. Neither party shall use discriminatory practices in their respective performance under this MOU on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, sexual orientation, and ethnicity, status as a disabled veteran or veteran of the Vietnam era.
28. The waiver by either party of a breach by the other of any provision of this MOU shall not constitute a continuing waiver or a waiver of any subsequent breach of either the same or a different provision of this MOU. No provisions of this MOU may be waived unless in writing and signed by all parties to this MOU. Waiver of any one provision herein shall not be deemed to be a waiver of any other provision herein.
29. The Parties, through their authorized representatives, have executed this MOU as of the day and year first written above.
30. All notices and other communications required hereunder or related hereto shall be directed, respectively, to:

Calaveras Unified School District
Mark Campbell, Superintendent

Calaveras County Water District
Jeffrey Meyer, Interim General Manager

_____	(email)	_____	(email)
_____	(facsimile)	_____	(facsimile)
_____	(telephone)	_____	(telephone)

IN WITNESS WHEREOF the Parties hereto have executed this MOU as of the date first above written.

DATED: _____

CALAVERAS UNIFIED SCHOOL DISTRICT

By: _____

DATED: _____

CALAVERAS COUNTY WATER DISTRICT

By: _____

APPROVED AS TO FORM:

Bryan G. Martin, Legal Counsel for
Calaveras Unified School District

Mathew Weber, Legal Counsel for
Calaveras County Water District