

**MEMORADUM OF UNDERSTANDING BETWEEN CITY OF WHEATLAND
AND WHEATLAND SCHOOL DISTRICT
REGARDING HOOPER AND OLIVE STREET IMPROVEMENT PROJECT**

This Memorandum of Understanding ("MOU") is effective as of the date of execution set forth below by and between the City of Wheatland ("CITY"), and Wheatland School District ("DISTRICT"), hereafter collectively referred to as "the Parties." The Parties to this MOU agree to work together to design and evaluate, and finance, proposed improvements to Hooper AND Olive Streets adjacent to Wheatland Elementary School.

RECITALS

WHEREAS, Hooper and Olive Streets are City of Wheatland street adjacent to Wheatland Elementary School; and

WHEREAS, areas on both sides of the street are frequently used by parents to both drop off and pick up students; and

WHEREAS, the CITY is planning an improvement project to improve the street surface and enhance the aesthetics of the area; and

WHEREAS, DISTRICT desires the project to improve vehicle and bus traffic to the school;

WHEREAS, the conceptual improvements, if implemented, would require some construction to occur on DISTRICT property; and

WHEREAS, the CITY is undertaking feasibility and planning studies of the conceptual improvements, and this Memorandum of Understanding is an agreement for DISTRICT to help fund the cost of the improvements that will ultimately be constructed. This MOU therefore does not require environmental review under the California Environmental Quality Act (*see* 14 C.C.R. § 15262; *California Oak Fdn. v. Regents of University of California*, 188 Cal. App. 4th 227, 287 (2010); *Not About Water Com v. Bd. of Supervisors*, 95 Cal. App. 4th 982, 1001 (2002); *Kaufman & Broad-South Bay, Inc. v. Morgan Hill Unified School Dist.*, 9 Cal. App. 4th 464, 468 (1992)).

NOW THEREFORE, IN CONSIDERATION OF THE FACTS STATED ABOVE, THE MUTUAL ADVANTAGES TO BE DERIVED, AND THE MUTUAL COVENANTS CONTAINED HEREIN, it is agreed by and among the Parties, as follows:

1. DESIGNATED REPRESENTATIVES

For purposes of carrying out the obligations undertaken by the Parties in this MOU, the City Manager (or his designee) is the authorized representative for the CITY, and the Superintendent (or her designee) is the authorized representative for DISTRICT.

2. PARTIES' OBLIGATIONS, DUTIES AND RESPONSIBILITIES

- a. CITY agrees to consult DISTRICT Superintendent on final project design.
- b. DISTRICT agrees to contribute \$30,000 to the project.
- c. DISTRICT agrees to pay CITY \$30,000 for engineering design, construction and project management expenses within 10 days of CITY'S award of a construction contract for the project.
- e. CITY and DISTRICT agree the CITY will serve as lead agency and manage all phases of the project including design engineering and environmental compliance (the "Planning and Feasibility Studies").
- g. CITY and DISTRICT further agree that:
 - (1) The CITY will continue to serve as lead agency and manage all phases of the project, including obtaining all necessary permits and approvals, project management, and construction.
 - (2) DISTRICT agrees to provide CITY, its consultants, and its contractors the right of entry on DISTRICT property as needed to construct the project.
 - (3) CITY and DISTRICT agree to cooperate with regard to the timing of construction activities to minimize impacts to DISTRICT operations and the public at large.
 - (4) DISTRICT agrees to provide any necessary letters of support and attend meetings (such as City Council) that may be helpful in obtaining approvals from outside agencies such as Caltrans.
 - (5) DISTRICT and CITY agree to jointly develop and disseminate public information to promote the project, raise safety awareness and communicate to students, parents, DISTRICT staff and the traveling public regarding the construction and eventual use of the improvements.

3. GENERAL PROVISIONS

- a. This MOU constitutes the entire agreement between the Parties with respect to the subject matter and supersedes all prior and contemporaneous agreements and understandings of the Parties. This MOU may be amended only by the written, mutual consent of all Parties.
- b. Each Party shall assume the responsibility and liability for the acts and omissions of its own officers, agents, or employees in connection with the performance of their official duties under this MOU. For tort liability purposes, no participating Party shall be considered the agent of any of the other participating Parties.

Each participating Party shall be liable (if at all) only for the torts of its own personnel that occur within the scope of their official duties.

- (1) The provisions contained herein include any violation of applicable law, ordinance, regulation, or rule, including where the claim, loss, damage, charge or expense was caused by deliberate willful, or criminal acts of any Party, or any of its agents, officers, or employees in its, or their performance hereunder.
 - (2) It is the intent of the Parties that, where negligence is determined to have been contributory, principles of comparative negligence will be followed and each Party shall bear the proportionate cost of any loss, damage, expense and liability attributable to that Party's negligence.
 - (3) The Parties shall establish procedures to notify the other agencies where appropriate of any claims, administrative actions or legal actions with respect to any of the matters described in this indemnification provision. The Parties shall cooperate in the defense of such actions brought by other with respect to the matters covered in this MOU.
 - (4) Nothing set forth in this MOU shall establish a standard of care for, or create any legal rights in, any person not a Party to this MOU.
- c. Waiver of breach or default under this MOU shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this MOU.
 - d. This MOU shall be binding upon and shall inure to the benefit of any successors to or assigns of the Parties.
 - e. This MOU reflects the contributions of both Parties and accordingly the provisions of Civil Code section 1654 shall not apply in interpreting this MOU.

4. TERMINATION

This MOU may be terminated by either of the Parties without cause upon thirty (30) days' written notice to the other Party.

5. NOTICES

Any notice required or permitted to be given under this MOU shall be in writing and shall be served by first-class U.S. mail, personal delivery, or overnight delivery by a known courier service such as Federal Express or Golden State Overnight.

SIGNATURES

Executed this _____ day of _____ 2023, by:

CITY OF WHEATLAND

By: _____
Jim Goodwin, City Manager

ATTEST:

By: _____
Lisa Thomason, City Clerk

WHEATLAND SCHOOL DISTRICT

By: _____
Superintendent

ATTEST:

By: _____
Clerk of the Board