

**AGREEMENT BETWEEN THE CITY OF SAN LUIS OBISPO  
AND THE BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY  
REGARDING WATER AND SEWER RATES (“Agreement”)**

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THIS AGREEMENT, made on \_\_\_\_\_, by and between the CITY OF SAN LUIS OBISPO, CALIFORNIA (hereinafter referred to as "City"), and BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY (hereinafter referred to as "University").

WITNESSETH:

WHEREAS, the City and the University entered into a Memorandum of Understanding on March 17, 2020 agreeing to address a series of water and sewer objectives by agreement; and

WHEREAS, the City and the University agree that this Agreement is solely for the purpose of establishing appropriate water and sewer rate structures based on the Agreement Between the City of San Luis Obispo and the Board of Trustees of the California State University Regarding Capacity Interest in the Water and Sewer Systems dated, \_\_\_\_\_, and the 2021 Memorandum of Understanding Between the City of San Luis Obispo and the Board of Trustees of the California State University Regarding Capacity Interest in City Facilities collectively referred to as the “Agreement”; and

WHEREAS, the City and the University entered into a new methodology of calculating rates in January 1993, and subsequently recalculated the rates in 1998, 2003, 2007, 2012; and

WHEREAS, the City and the University agreed in 1998, 2003, 2007, and 2012 to a rate structure which ties the University to the City’s approved non-residential rate structure, including monthly fixed charges, and periodic rate review, while reflecting the University’s unique differences from other City customers; and

WHEREAS, it is agreed that the University is exempt from all City Water Source of Supply costs as it has its own source of supply in Whale Rock Reservoir and as a member agency of the Whale Rock Commission pays separately for its water supply costs; and

WHEREAS, it is agreed that the University will pay the City to provide water supply operational resiliency from other City water supplies to prevent service interruption when the University’s water supply from Whale Rock Reservoir is unavailable; and

WHEREAS, it is agreed that the University will maintain its capacity interest in the City’s Water Treatment Plant by paying its percentage share of agreed upon capital costs for the upgrade underway in 2021 thereby adjusting their water rate; and

WHEREAS, it is agreed that the University will maintain its capacity interest in the City's Water Resource Recovery Facility (WRRF)<sup>1</sup> by paying its percentage share of agreed upon capital costs for the upgrade underway in 2021 thereby adjusting their sewer rate; and

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

1. RATE STRUCTURE METHODOLOGY

**Water Rate Structure**

The University's rate structure for water shall be based on the current rate for City non-residential accounts as modified by a percentage ("ratio") that accounts for that part of the rate structure that is applicable to the University.

Using only those expenses related to water treatment, water distribution, and less any capacity interest in the system purchased by the University defined in the 2021 Capacity Interest Agreement, this ratio is based on the following formula: *The sum of (3 most recent fiscal years audited expenses + 1 current fiscal year projected expenses + 1 upcoming fiscal year projected expenses) divided by 5 = annual ratio.* As an example, FY 2020-21 rate ratio calculation would be (2018+2019+2020+2021+2022) / 5. It shall be established as outlined in paragraph 2 and shall be recalculated annually by the City and provided to the University 30-days prior to its Annual Partnership Meeting as described in part 6 of this agreement. The calculation of the current ratio for water charges is shown in Schedule A to this agreement.

**Sewer Rate Structure**

The University's rate structure for sewer shall be based on the current rate for City non-residential accounts as modified by a percentage ("ratio") that accounts for that part of the rate structure that is applicable to the University.

Using expenses divided appropriately according to operational, capital, and debt service expenses for three components: collection, pretreatment, and treatment less any capacity interest in the system purchased by the University defined in the 2021 Capacity Interest Agreement, this ratio is based on the following formula: *The sum of (3 most recent fiscal years audited expenses + 1 current fiscal year projected expenses + 1 upcoming fiscal year projected expenses) divided by 5 = annual ratio.* As an example, FY 2020-21 rate ratio calculation would be (2018+2019+2020+2021+2022) / 5. It shall be established as outlined in paragraph 3 and shall be recalculated annually by the City and provided to Cal Poly 30-days prior to its Annual Partnership Meeting as described in part 6 of this agreement. The calculation of the current ratio for sewer charges is shown in Schedule B to this agreement.

2. SETTING A WATER RATE RATIO

The ratio to be applied to the non-residential water rate structure shall be determined by the City. The City shall prepare a five-year analysis of the expenses for the City's water system. These expenses shall be divided according to Operational, Capital, and Debt Service for three components: Source of Supply, Treatment, and Distribution. The division of expenses in this manner will therefore appear as a matrix (three columns labeled Source of Supply, Treatment, and Distribution; five rows labeled Operations and Maintenance, Capital Outlay, Debt Service – 2018 WTP, Debt Service – 2019 WTP, and Debt Service - Other).

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<sup>1</sup> The City's Water Resource Recovery Facility (WRRF), was referred to in prior agreements as the Water Reclamation Facility (WRF).

The University's rate structure will be based only on those expenses related to water treatment and distribution, less any capacity interest in the system purchased by the University under separate agreement. The University shall not pay the percentage cost of those components related to those Source of Supply costs as the University has its own source of supply from Whale Rock Reservoir, except as described below related to short-term non-potable water.

Schedule A sets forth this analysis for the period beginning with the execution of this Agreement and extending until June 30, 2021 and shall serve as an example for determining any changes to the ratio in subsequent annual periods. Schedule A to this Agreement shows the current five-year expense analysis and related percentages as described above and provides a step-by-step description of the ratio-setting method.

### 3. OTHER WATER CHARGES

#### *Operational Resiliency for Potable Water*

The City will charge the University for water supply operational resiliency<sup>2</sup> based on the historical duration of Whale Rock outages (five days). The operational resiliency cost for 2020-21 is \$137,000<sup>3</sup>. In the event of a longer than the agreed upon five-day duration Whale Rock outage, the University would be charged the respective per acre-foot water supply pumping cost. The annual water supply operational resiliency cost will increase consistent with any approved water rate increase. Outages in excess of 30 days will require City Council approval.

#### *Short -Term Non-Potable Delivery*

If requested, the University's rate structure for short-term non-potable water<sup>4</sup> will be based on all current fiscal year City expenses related to Source of Supply. The University will make its annual request for short-term non-potable water to the City in writing 30-days prior to its Annual Partnership Meeting. Short-term requests will be considered for a rolling period no longer than five years<sup>5</sup>. The provision of short-term non-potable water to the University will be interruptible during any declared City water shortage emergency and will only be made available following the City's established policies and procedures.

### 4. SETTING A SEWER RATE RATIO

The ratio to be applied to the non-residential sewer rate structure shall be determined by the City. The City shall prepare a prospective five-year analysis of the expenses for the City's sewer system. These expenses shall be divided according to Operational, Capital, and Debt Service expenses for three components: Collection, Pretreatment, and Treatment. The University's rate structure will be based on the expenses for these components less any capacity interest in the system purchased by the University under separate agreement. The division of expenses in this manner will therefore appear as a matrix (three columns labeled Collection, Pretreatment, and Treatment; four rows labeled Operations and Maintenance, Capital Outlay, Debt Service – WRRF, and Debt Service – Other).

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<sup>2</sup> The City charges the University for Water Supply Operational Resiliency which provides the University source water from a City water supply source if the University's Whale Rock water supply is unavailable.

<sup>3</sup> Water delivered to Cal Poly from another City water supply source in-lieu of Whale Rock water is accounted for under the Whale Rock Operating Policy, executed on May 13, 2014 by the Whale Rock participating agencies.

<sup>4</sup> Short-term non-potable water is untreated (raw) water provided by a City water supply source for non-potable purposes, such as agricultural irrigation.

<sup>5</sup> As used here, the rolling five-year contract period would extend each year unless notice is given that non-potable water is no longer needed by the University or no longer available from the City.

Schedule B sets forth this analysis for the period beginning with the execution of this Agreement extending until June 30, 2021 and shall serve as an example for determining any changes to the ratio in subsequent annual periods. Schedule B to this Agreement shows the current five-year expense analysis and related percentages as described above and provides a step-by-step description of the ratio-setting method.

#### 5. OTHER SEWER CHARGES

If requested, the University's rate structure for short-term wastewater collection system and wastewater treatment capacity will be based on City expenses related to wastewater collection and treatment, including financing costs. The University will make its annual requests for short-term wastewater collection system and wastewater treatment capacity to the City in writing 30-days prior to its Annual Partnership Meeting. Short-term requests will be considered for a rolling period no longer than five years<sup>6</sup>. The City retains the right to deny any requests.

#### 6. ANNUAL PARTNERSHIP MEETING

It is the intent of both parties to participate annually, no later than March each year, with information shared 30-days prior to the meeting, to review and discuss in good faith the following water and sewer rate and service issues.

City to provide:

- A. Prior fiscal year's rate analysis compared to actual expenses,
- B. Sewer meter calibration report,
- C. Water consumption and rate trends,
- D. Data related to peak day water demand, dry weather daily wastewater flow, and peak wastewater flow,
- E. Status of City WTP and City WRRF projects and any planned projects,
- F. Availability for short-term non-potable water, and available capacity for water treatment, wastewater collection system, and wastewater treatment, and
- G. Any major assumptions significantly changing the water and sewer rate ratios.

University to provide:

- A. Progress on planned development, enrollment projections, planned Utility Master Plan improvements, and planned water service connections, locations, and required water and wastewater service for the coming year,
- B. Annual efforts to reduce inflow and infiltration into its wastewater collection system (feet of sewer pipe replaced, etc.),
- C. Request for additional water treatment capacity, if projections of peak daily water demand exceed WTP capacity interest,
- D. Request for short-term non-potable water,
- E. Request for short-term wastewater collection system and/or WRRF treatment capacity (if projections of average daily dry weather flow or peak flow exceed capacity interest), and
- F. Status of campus water reclamation facility and campus water storage projects.

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<sup>6</sup> As used here, the rolling five-year contract period would extend each year unless notice is given that short-term wastewater capacity is no longer needed by the University or no longer approved by the City.

7. AMENDMENTS TO THE RATIO

*Exceeding Capacity Interest*

The City will inform the University in writing when water demand from the WTP or wastewater flows to the wastewater collection system or WRRF are within ten percent of the University's capacity interest. If the University exceeds its capacity interest in the WTP, wastewater collection system, or WRRF, at the discretion of the partners, a Partnership Meeting will be held within 30 days of the exceedance for the City and University develop terms to mitigate the exceedance.

*Resetting the Rate Ratio*

In the event the City and University cannot reach agreement on the proposed applicable rate ratio for the next year, the rate ratio in existence at that time shall remain in effect until agreement is reached. The parties agree to cooperate and use their best efforts to reach agreement on the proposed rate ratio in an expeditious manner.

8. TERM OF AGREEMENT

This Agreement shall remain in place until June 30, 2025 as long as all conditions described (other than the five-year ratio) remain the same.

9. AMENDMENTS TO THIS AGREEMENT

Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon approval by both parties.

10. COMPLETE AGREEMENT

This written Agreement, including the Memorandum of Understanding between the City of San Luis Obispo and California Polytechnic State University Regarding Capacity Interest in City Facilities dated \_\_\_\_\_, attached hereto as Attachment A, specifically incorporated herein by reference, shall constitute the complete agreement between the parties hereto. No oral agreement, understanding, or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral agreement, understanding, or representation be binding upon the parties hereto.

11. NOTICE

The City shall provide the University with at least the same notice of proposed changes in water and sewer rates as other City customers. All notices related to this agreement shall be in writing and addressed as follows:

University  
Dennis Elliot  
Interim Associate Vice President  
Facilities & Development  
Cal Poly State University  
San Luis Obispo, CA 93407

University  
Dru Zachmeyer  
Assistant Vice President  
Strategic Business Services  
Administration & Finance  
Cal Poly State University  
San Luis Obispo, CA 93407

City  
Aaron Floyd  
Utilities Director  
City of San Luis Obispo  
879 Morro St.  
San Luis Obispo, CA 93401

12. JOINT WORK PRODUCT

This agreement is the joint work product of both parties; accordingly, in the event of ambiguity no presumption shall be imposed against either party by reason of document preparation.

13. RELATIONSHIP OF PARTIES

City and the agents and employees of City in the performance of this agreement shall act in an independent capacity and not as officers or employees or agents of University. The employees of University who participate in the performance of this agreement are not agents of the City.

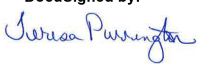
14. AUTHORITY TO EXECUTE AGREEMENT

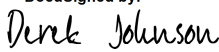
Both City and University do covenant that each individual executing this agreement on behalf of each party is a person duly authorized and empowered to execute Agreements for such party.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year first above written.


ATTEST:

CITY OF SAN LUIS OBISPO,  
A Municipal Corporation

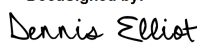
DocuSigned by:  
  
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Teresa Purrington, City Clerk

DocuSigned by:  
  
793D822F72C34F0...  
By: Derek Johnson, City Manager

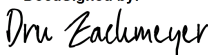
APPROVED AS TO FORM:

DocuSigned by:  
  
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J. Christine Dietrick, City Attorney

CONCUR:

DocuSigned by:  
  
E26F6C39A581438...  
Dennis Elliot, Director  
Interim Associate Vice President  
Facilities Management & Development

UNIVERSITY:

DocuSigned by:  
  
AB559A325B014CA...  
By: Dru Zachmeyer,  
Assistant Vice President  
Strategic Business Services  
Administration & Finance

## SCHEDULE A. WATER

### Steps to setting Cal Poly's appropriate share of the Non-Residential Water Rate

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- ① Annually the City shall prepare a rolling five-year schedule of expenses related to the City's provision of water service. The schedule will include actual expenses for the three most recent audited fiscal years and projected expenses for both the current and next fiscal year.
- ② These expenses shall be divided appropriately according to operational, capital, or debt service. Each of these categories will be further divided according to whether it is a source of supply, treatment, or distribution expense. The information for each year will be shown in a matrix, at the bottom and right of which will appear the totals for that row and that column.
- ③ Expenses applicable to Cal Poly will be shaded.
- ④ The percentage of the shaded expenses to the total expenses will be calculated each year on the line labeled "Percent Applicable to Cal Poly".
- ⑤ The five annual percentages will be totaled and then divided by five to determine the average percentage of the rate applicable to Cal Poly, based on the five-year schedule of expenses. This is the percentage of the Non-residential rate that will be charged to Cal Poly for the upcoming year. Each year, the oldest year will be moved out of the schedule, the most recent audited fiscal year expenses will be added and a new year of projected expenses will be added after which a new five year average will be calculated. This "rolling average" will determine each new year's ratio.

**Formula:** (3 most recent fiscal years audited expenses) + (1 current fiscal year projected expenses) + (1 upcoming fiscal year projected expenses) divided by 5 = annual ratio

✚ The Non-Residential Water Rate itself will be set by the City Council each year.

#### DEFINITIONS:

##### ***Operations and Maintenance***

The portion of the budget that pertains to daily operations and delivery of basic governmental services related to provision of water service. The six water program budgets in the City's financial plan form the Water Fund's operating budget.

##### ***Capital Outlay***

The portion of the budget that pertains to maintaining or replacing existing public facilities and assets, and for building or acquiring new ones as set forth in the City's capital improvement plan. For the purpose of the Cal Poly ratio-setting model, any project that is debt-financed will not show in the Capital Outlay expense category, it will show in the Debt Service category.

##### ***Debt Service***

Payments of principal and interest on bonds and other debt instruments according to a pre-determined schedule. Debt financed capital expenses are not included in the Capital Outlay category.

##### ***Source of Supply***

Those water expenses directly related to the City's water supply from Whale Rock, Salinas, and Nacimiento Reservoirs, and recycled water. It also includes water conservation expenses, as this has been the key to reducing City water demand, effectively creating more water by reducing the need to create additional water supply. Development of new water supply projects fall into this category.

##### ***Distribution***

The cost to deliver potable water from the Water Treatment Plant to customers and fire hydrants via the distribution infrastructure.

##### ***Treatment***

The cost to treat raw water from the City's sources to meet potable water standards and deliver it into the water distribution system.

## SCHEDULE A. WATER

### Water Rate

### Cal Poly State University

Summary of Water Cost Components for 2017-18				
	Source			
	of Supply	Treatment	Distribution	Total
Operation & Maintenance	\$ 9,126,710	\$ 4,107,968	\$ 3,454,283	\$ 16,688,961
Capital Outlay	\$ 67,310	\$ 856,246	\$ 2,445,339	\$ 3,368,895
Debt Service - 2006 WTP		\$ 1,033,548		\$ 1,033,548
Debt Service - Other	\$ 525,457	\$ 569,600	\$ 65,427	\$ 1,160,484
<b>Total</b>	<b>\$ 9,719,477</b>	<b>\$ 6,567,362</b>	<b>\$ 5,965,049</b>	<b>\$ 22,251,888</b>
Total applicable to Cal Poly		\$ 5,997,762	\$ 5,965,049	\$ 11,962,811
Percent applicable to Cal Poly		91%	100%	54%
Summary of Water Cost Components for 2018-19				
	Source			
	of Supply	Treatment	Distribution	Total
Operation & Maintenance	\$ 9,238,768	\$ 2,390,373	\$ 2,390,373	\$ 14,019,513
Capital Outlay	\$ 50,385	\$ 1,053,014	\$ 2,141,604	\$ 3,245,003
Debt Service - 2018 WTP (Refunded 2006 WTP)		\$ 898,802		\$ 898,802
Debt Service - Other	\$ 525,457	\$ 571,600	\$ 74,669	\$ 1,171,726
<b>Total</b>	<b>\$ 9,814,610</b>	<b>\$ 4,913,789</b>	<b>\$ 4,606,645</b>	<b>\$ 19,335,044</b>
Total applicable to Cal Poly		\$ 4,342,189	\$ 4,606,645	\$ 8,948,835
Percent applicable to Cal Poly		88%	100%	46%
Summary of Water Cost Components for 2019-20				
	Source			
	of Supply	Treatment	Distribution	Total
Operation & Maintenance	\$ 11,165,554	\$ 4,121,628	\$ 3,596,769	\$ 18,883,952
Capital Outlay	\$ 305,157	\$ 856,246	\$ 2,141,604	\$ 3,303,008
Debt Service - 2018 WTP		\$ 883,900		\$ 883,900
Debt Service - Other	\$ 2,960,804	\$ 567,800	\$ 28,111	\$ 3,556,715
<b>Total</b>	<b>\$ 14,431,515</b>	<b>\$ 6,429,575</b>	<b>\$ 5,766,484</b>	<b>\$ 26,627,575</b>
Total applicable to Cal Poly		\$ 5,861,775	\$ 5,766,484	\$ 11,628,259
Percent applicable to Cal Poly		91%	100%	44%
Summary of Water Cost Components for 2020-21				
	Source			
	of Supply	Treatment	Distribution	Total
Operation & Maintenance	\$ 11,078,031	\$ 4,821,694	\$ 2,808,168	\$ 18,707,892
Capital Outlay	\$ 1,215,505	\$ 229,149	\$ 2,556,663	\$ 4,001,318
Debt Service - 2018 WTP		\$ 892,300		\$ 892,300
Debt Service - Other	\$ -	\$ 568,400	\$ 28,410	\$ 596,810
<b>Total</b>	<b>\$ 12,293,536</b>	<b>\$ 6,511,543</b>	<b>\$ 5,393,241</b>	<b>\$ 24,198,320</b>
Total applicable to Cal Poly		\$ 5,943,143	\$ 5,393,241	\$ 11,336,384
Percent applicable to Cal Poly		91%	100%	47%
Summary of Water Cost Components for 2021-22				
	Source			
	of Supply	Treatment	Distribution	Total
Operation & Maintenance	\$ 10,246,096	\$ 4,339,308	\$ 3,800,232	\$ 18,385,635
Capital Outlay	\$ 150,000	\$ 232,003	\$ 1,945,181	\$ 2,327,184
Debt Service - 2018 WTP		\$ 889,700		\$ 889,700
Debt Service - 2019 WTP		\$ 958,524		\$ 958,524
Debt Service - Other	\$ -	\$ 573,200	\$ 28,747	\$ 601,947
<b>Total</b>	<b>\$ 10,396,096</b>	<b>\$ 6,992,735</b>	<b>\$ 5,774,160</b>	<b>\$ 23,162,991</b>
Total applicable to Cal Poly		\$ 6,419,535	\$ 5,774,160	\$ 12,193,695
Percent applicable to Cal Poly				52%

NOTE: Expenses applicable to Cal Poly's water rate are shaded.

Water Rate Percentage for FY 2020-21 (5-year Average):  $54+46+44+47+52 / 5 = \underline{48\%}$



## SCHEDULE B. SEWER

### Steps to setting Cal Poly's appropriate share of the Non-Residential Sewer Rate

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- ① Annually the City shall prepare a rolling five-year schedule of expenses related to the City's provision of wastewater service. The schedule will include actual expenses for the three most recent audited fiscal years and projected expenses for both the current and next fiscal year.
- ② These expenses shall be divided appropriately according to operational, capital or debt service. Each of these categories will be further divided according to whether it is a collection, pretreatment, or a treatment expense. The information for each year will be shown in a matrix, at the bottom and right of which will appear the totals for that row and that column.
- ③ Expenses applicable to Cal Poly will be shaded.
- ④ The percentage of the shaded expenses to the total expenses will be calculated each year on the line labeled "Percent Applicable to Cal Poly".
- ⑤ The five annual percentages will be totaled and then divided by five to determine the average percentage of the rate applicable to Cal Poly, based on the five-year schedule of expenses. This is the percentage of the Non-residential rate that will be charged to Cal Poly for the five-year period.

**Formula:** (3 most recent fiscal years audited expenses) + (1 current fiscal year projected expenses) + (1 upcoming fiscal year projected expenses) divided by 5 = annual ratio

✦ The Non-Residential Sewer Rate itself will be set by the City Council each year.

## DEFINITIONS

### ***Operations and Maintenance***

The portion of the budget that pertains to daily operations and delivery of basic governmental services. The four sewer program budgets in the City's financial plan form the Sewer Fund's operating budget.

### ***Capital Outlay***

The portion of the budget that pertains to maintaining or replacing existing public facilities and assets, and for building or acquiring new ones as set forth in the City's capital improvement plan. For the purpose of the Cal Poly ratio-setting model, any project that is debt-financed will not show in the Capital Outlay expense category, it will show in the Debt Service category.

### ***Debt Service***

Payments of principal and interest on bonds and other debt instruments according to a pre-determined schedule. Debt financed capital expenses are not included in the Capital Outlay category.

### ***Collection***

Those sewer expenses directly related to the collection and transportation of wastewater from its various sources to the Water Resource Recovery Facility.

### ***Pretreatment***

The cost of the program whose goal is to prevent toxic waste from entering the wastewater collection system at non-residential and industrial sources.

### ***Treatment***

The cost to treat and dispose of municipal wastewater. All disposal must strictly comply with the State Health and Regional Water Quality board's requirements for discharge into San Luis Obispo Creek or disposal of biosolids.

## SCHEDULE B. SEWER

Sewer Rate

Cal Poly State University

<b>Summary of Sewer Cost Components for 2017-18</b>				
	Collection	Pretreatment	Treatment	Total
Operations and Maintenance	1,428,200	366,300	5,917,900	7,712,400
Capital Outlay - Adjusted	1,790,400	0	7,075,500	8,865,900
Debt Service - Prepaid				0
Debt Service - Other	782,950	0	618,363	1,401,313
<b>Total</b>	<b>4,001,550</b>	<b>366,300</b>	<b>13,611,763</b>	<b>17,979,613</b>
Percent Applicable to Cal Poly	22%	2%	76%	100%
<b>Summary of Sewer Cost Components for 2018-19</b>				
	Collection	Pretreatment	Treatment	Total
Operations and Maintenance	1,751,800	421,300	7,157,700	9,330,800
Capital Outlay - Adjusted	4,058,800	0	3,515,700	7,574,500
Debt Service - Prepaid	0	0	0	0
Debt Service - Other	780,505	0	618,177	1,398,682
<b>Total</b>	<b>6,591,105</b>	<b>421,300</b>	<b>11,291,577</b>	<b>18,303,982</b>
Percent Applicable to Cal Poly	36%	2%	62%	100%
<b>Summary of Sewer Cost Components for 2019-20</b>				
<b>WRRF Construction Costs Begin</b>				
	Collection	Pretreatment	Treatment	Total
Operations and Maintenance	1,549,100	409,600	6,381,500	8,340,200
Capital Outlay - Adjusted	1,065,700	35,500	497,300	1,598,500
Debt Service - Prepaid	0	0	0	0
Debt Service - Other	737,011	0	618,177	1,355,188
<b>Total</b>	<b>3,351,811</b>	<b>445,100</b>	<b>7,496,977</b>	<b>11,293,888</b>
Percent Applicable to Cal Poly	30%	4%	66%	100%
<b>Summary of Sewer Cost Components for 2020-21</b>				
	Collection	Pretreatment	Treatment	Total
Operations and Maintenance	1,639,600	402,700	6,603,500	8,645,800
Capital Outlay - Adjusted	2,479,800	0	300,500	2,780,300
Debt Service - Prepaid		0		0
Debt Service - Other	739,468		617,787	1,357,255
<b>Total</b>	<b>4,858,868</b>	<b>402,700</b>	<b>7,521,787</b>	<b>12,783,355</b>
Percent Applicable to Cal Poly	38%	3%	59%	100%
<b>Summary of Sewer Cost Components for 2021-22</b>				
<b>WRRF Debt Service Begins</b>				
	Collection	Pretreatment	Treatment	Total
Operations and Maintenance	1,639,100	401,300	6,773,300	8,813,700
Capital Outlay - Adjusted	8,135,759	0	55,000	8,190,759
Debt Service - WRRF		0		0
Debt Service - Other	736,576		617,584	1,354,161
<b>Total</b>	<b>10,511,435</b>	<b>401,300</b>	<b>7,445,884</b>	<b>18,358,620</b>
Percent Applicable to Cal Poly	57%	2%	41%	100%

NOTE: Expenses applicable to Cal Poly's sewer rate are shaded.

Sewer Rate Percentage for FY 2020-21 (5-year Average):  $100+100+100+100+100 / 5 = \underline{100\%}$

**AGREEMENT BETWEEN THE CITY OF SAN LUIS OBISPO AND  
THE BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY  
REGARDING CAPACITY INTEREST IN THE WATER AND SEWER SYSTEMS**

THIS AGREEMENT, dated \_\_\_\_\_ by and between the CITY OF SAN LUIS OBISPO, CALIFORNIA (hereinafter referred to as "City"), and the BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY (hereinafter referred to as "University").

WITNESSETH:

WHEREAS, the City and the University entered into a Memorandum of Understanding on March 17, 2020 agreeing to address a series of water and sewer objectives by agreement including fair share contributions to the City's Water Treatment Plant and Water Resource Recovery Facility; and

WHEREAS, the City and the University have a long-standing relationship participating on the Whale Rock Commission related to the operation of Whale Rock Reservoir,

WHEREAS, the City and the University also have a long relationship with regard to the City's Water Treatment Plant, Wastewater Collection System, and Water Resource Recovery Facility; and

WHEREAS, it is the desire of both parties to continue that relationship; and

WHEREAS, the City is upgrading both its Water Treatment Plant and Water Resource Recovery Facility; and

WHEREAS, the University is interested in maintaining a capacity interest in the City's Water Treatment Plant and Water Resource Recovery Facility; and

NOW, THEREFORE, in consideration of their mutual covenants, the parties hereto agree as follows:

**1. WATER SYSTEM**

It is agreed that the University will maintain its capacity interest in the City's Water Treatment Plant equivalent to a maximum of 1,000 acre-feet per year at a daily volume not to exceed 893,000 gallons daily, and not to exceed a peak day maximum flow rate of 1.44 million gallons daily (mgd).

**A. Water Treatment Plant**

The City's Water Energy Efficiency project at its Water Treatment Plant will ensure continuing compliance with drinking water quality regulations as well as modernize certain components of the facility. The University agrees to pay the percentage obtained by the division of 1.44 mgd (University's maximum flow rate) by 16.0 mgd (total maximum daily plant flow rate), or 9.0 percent, of the total project cost. The cost to the University for project design totals \$261,180 and will be charged during the 2020-21 fiscal year. The construction cost to the University is **\$1,548,180** plus 2.5 percent annual interest for a

term not to exceed 20 years which will be finalized by letter when project construction is complete, subject to the total contribution ceiling noted in paragraph three of this agreement. The estimated annual payment is \$86,267.16 for 20 years beginning in the 2021-22 fiscal year. The City will communicate with Cal Poly on future terms when refinancing or prepaying debt.

#### B. Water Distribution System and Treated Water Storage

As of 2021, the University has not purchased a capacity interest in the City's water distribution or treated water storage system outside of the Water Treatment Plant. Prior to the University adding demand to the City's water distribution or treated water storage system, the University will identify water service needs, design, and construct necessary pipelines and storage, including University capital contributions to City systems, to mitigate all impacts to the City's water distribution or treated water storage system. New service cannot be provided to the University that could adversely affect downstream City customers.

## 2. SEWER SYSTEM

It is agreed that the University will maintain its capacity interest in the City's Water Resource Recovery Facility equivalent to a total daily volume of 0.471 mgd. The University's current capacity interest in the wastewater collection system is a peak flow rate of 833 gallons per minute (1.2 mgd), required due to infiltration and inflow and wet weather peak flows.<sup>7</sup>

#### A. Water Resource Recovery Facility

The upgrades to the Water Resource Recovery Facility are mandatory to meeting regulatory discharge requirements. The total daily flow capacity of the plant will expand from 5.1 mgd to 5.4 mgd. The University agrees to pay the percentage obtained by the division of 0.471 mgd (University's interest) by 5.1 mgd (existing plant capacity), or 9.24 percent, or by the division of 0.471 (University's interest) by 5.4 mgd (future plant capacity), or 8.72 percent, of the total project cost, as detailed in Attachment 1. The cost to the University for project design totals \$730,704. The City will charge the University \$243,568 over three consecutive fiscal years beginning in the 2020-21 fiscal year to cover the University's share of the design costs. The estimated construction cost to the University is **\$13,997,193** plus 1.8 percent annual interest for a term not to exceed 30 years, which will be refined upward or downward by letter when project construction is complete, subject to the total contribution ceiling noted in paragraph three of this agreement. The estimated annual payment is \$472,533.97 for 30 years beginning in the 2023-24 fiscal year. The City will communicate with Cal Poly on future terms when refinancing or prepaying debt.

#### B. Wastewater Collection System

No upgrades are planned at this time to the relief sewer main (i.e., sewer interceptor), therefore, there is no additional cost at this time for the University to maintain its capacity interest in the City's wastewater collection system at the peak flow rate of 1.2 mgd level.

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<sup>7</sup> The University's total daily flow capacity to the City's Water Resource Recovery Facility (0.471 million gallons daily) is measured over a 24-hour period (a calendar day). The University's peak flow rate to the City's Wastewater Collection System (1.2 million gallons daily) is the highest recorded flow rate allowed under this Agreement.

### 3. RECEIPT OF FUNDS

To maintain a capacity interest in the City's Water Treatment Plant and Water Resource Recovery Facility, the University's contribution for the construction will not exceed **\$15,545,373** plus applicable financing. Exercising this option will be reflected in the percentage ratio of the non-residential rate structure as set forth in the Agreement between the City and the University regarding water and sewer rates following execution of this Agreement regarding capacity interest. The adjusted water ratio is described in Exhibit A of that Agreement; and the adjusted sewer ratio is described in Exhibit B of that Agreement.

### 4. NOTICE

All notices related to this agreement shall be in writing and addressed as follows:

**University:**

Dennis Elliot, Interim Associate Vice President  
Facilities & Development  
Cal Poly State University  
San Luis Obispo, CA 93407

Dru Zachmeyer, Assistant Vice President  
Strategic Business Services  
Administration & Finance  
Cal Poly University  
San Luis Obispo, CA 93407

**City:**

Aaron Floyd, Utilities Director  
City of San Luis Obispo  
879 Morro Street  
San Luis Obispo, CA 93401


### 5. AGREEMENT CONTAINS ALL UNDERSTANDINGS

This document represents the entire and integrated Agreement between the City and the University, and supersedes all prior negotiations, representations, or Agreements, either written or oral, except as described the 2021 Memorandum of Understanding by and between the parties. This document may be amended only by written instrument, signed by both City and University. All provisions of this Agreement are expressly made conditions. This Agreement shall be governed by the laws of the State of California.

IN WITNESS WHEREOF, CITY and UNIVERSITY have executed this Agreement the day and year first above written.


ATTEST:

CITY OF SAN LUIS OBISPO,  
A Municipal Corporation

DocuSigned by:  
  
B98BADBF9C78436...  
Teresa Purrington, City Clerk

DocuSigned by:  
  
793D822E72C34E0...  
By: Derek Johnson, City Manager


APPROVED AS TO FORM:

DocuSigned by:  
  
784AEA5BC8BC44F...  
J. Christine Dietrick, City Attorney

CONCUR:

UNIVERSITY:

DocuSigned by:  
  
E26F6C39A581438...  
Dennis Elliot, Director  
Interim Associate Vice President  
Facilities Management & Development

DocuSigned by:  
  
AB559A325B014CA...  
By: Dru Zachmeyer,  
Assistant Vice President  
Strategic Business Services  
Administration & Finance

## ATTACHMENT 1: 2021 Water Resource Recovery Facility Project Cost

Facility ID	Description	Capacity Related <sup>A</sup>	Estimated Cost <sup>B</sup>	Capacity Percentage <sup>C</sup>	Cal Poly Share <sup>D</sup>	Cal Poly Share + Contingency <sup>E</sup>
5	Site Work	No	\$7,917,752	9.24%	\$731,600	\$804,760.36
6	Yard Piping	No	\$8,556,058	9.24%	\$790,580	\$869,637.72
7	Landscape	Yes	\$1,112,303	8.72%	\$96,993	\$106,692.13
9	Site Electrical	No	\$6,325,651	9.24%	\$584,490	\$642,939.19
11	Air Gap Building	No	\$179,106	9.24%	\$16,549	\$18,204.37
14	Equalization Pond	Yes	\$2,893,797	8.72%	\$252,339	\$277,573.01
15	Headworks	No	\$679,338	9.24%	\$62,771	\$69,047.95
16	Ferric Chloride Facility	No	\$96,566	9.24%	\$8,923	\$9,814.92
17	Vactor Truck Facility	Yes	\$717,211	8.72%	\$62,541	\$68,794.89
20	Primary Clarifiers	No	\$1,916,038	9.24%	\$177,042	\$194,746.12
64	Filtrate Equalization Pump Station	No	\$350,320	9.24%	\$32,370	\$35,606.53
22	Sludge Pump Station	No	\$612,707	9.24%	\$56,614	\$62,275.51
27	Primary Effluent Diversion Box	Yes	\$498,587	8.72%	\$43,477	\$47,824.44
28	Primary Effluent Screens	Yes	\$3,531,853	8.72%	\$307,978	\$338,775.38
29	Calcium Hydroxide Facility	No	\$35,450	9.24%	\$3,276	\$3,603.10
30	Bioreactor 1 & 2 Modifications	Yes	\$4,868,143	8.72%	\$424,502	\$466,952.29
35	Bioreactor 3 & 4	Yes	\$7,812,882	8.72%	\$681,283	\$749,411.65
36	Chemical Storage	Yes	\$1,558,325	8.72%	\$135,886	\$149,474.52
40	MBR	Yes	\$23,320,401	8.72%	\$2,033,539	\$2,236,892.82
44	Switchgear Building	No	\$3,893,354	9.24%	\$359,746	\$395,720.46
51	Chemical Storage	Yes	\$118,951	8.72%	\$10,373	\$11,409.79
53	UV Area Electrical Building	Yes	\$1,480,284	8.72%	\$129,081	\$141,988.83
54	UV Disinfection	Yes	\$6,160,467	8.72%	\$537,193	\$590,911.97
55	Chlorine Contact Basin	No	\$25,545	9.24%	\$2,360	\$2,596.44
100	Mobilization	No	\$5,799,597	9.24%	\$535,883	\$589,471.06
68	Effluent Cooling	Yes	\$4,299,648	8.72%	\$374,929	\$412,422.27
92	Headworks Electrical Enclosure	No	\$1,251,923	9.24%	\$115,678	\$127,245.45
70	Sludge Blend Tank	No	\$1,016,841	9.24%	\$93,956	\$103,351.72
72	Thickening	No	\$2,522,050	9.24%	\$233,037	\$256,341.12
73	Solids Electrical Building	No	\$1,471,744	9.24%	\$135,989	\$149,588.06
80	Digester No. 1	No	\$595,791	9.24%	\$55,051	\$60,556.15
82	Digester No. 2	No	\$2,027,191	9.24%	\$187,312	\$206,043.68
83	Digester Building	No	\$2,687,269	9.24%	\$248,304	\$273,134.05
84	Cogeneration	No	\$46,701	9.24%	\$4,315	\$4,746.67
85	Digested Sludge Storage Tank	No	\$1,259,220	9.24%	\$116,352	\$127,987.08
86	Dewatering Building	No	\$745,590	9.24%	\$68,893	\$75,781.81
88	Odor Control Facility	No	\$1,523,675	9.24%	\$140,788	\$154,866.37
90	MCC-A Building	No	\$276,264	9.24%	\$25,527	\$28,079.46
91	MCC-B Building	No	\$179,438	9.24%	\$16,580	\$18,238.05
94	MCC-G Building	No	\$32,244	9.24%	\$2,979	\$3,277.25
97	MCC-J Building	No	\$79,219	9.24%	\$7,320	\$8,051.78
98	PG&E Revenue Meter Switchgear	No	\$380,531	9.24%	\$35,161	\$38,677.17
<b>Total Construction Cost <sup>F</sup></b>			<b>\$110,856,024.40</b>		<b>\$9,939,557.82</b>	<b>\$10,933,514</b>
<b>Program Soft Costs <sup>G</sup></b>			<b>\$30,989,858.00</b>	<b>9.24%</b>	<b>\$2,863,462.88</b>	<b>\$3,063,679</b>
					<b>\$12,803,021</b>	<b>\$13,997,193</b>

## ATTACHMENT 2: 2021 Water Energy Efficiency Project

	Design	WTP Backup Generator	Construction	Total Cost
Total Project Cost	\$ 902,000	\$ 2,000,000	\$ 14,300,000	\$ 17,202,000
Cal Poly Share (9.0%)	\$ 81,180	\$ 180,000	\$ 1,287,000	\$ 1,548,180
City Share (91.0%)	\$ 820,820	\$ 1,820,000	\$ 13,013,000	\$ 15,653,820

**2021 MEMORANDUM OF UNDERSTANDING (“MOU”) BETWEEN  
THE CITY OF SAN LUIS OBISPO (“City”) AND THE BOARD OF TRUSTEES OF  
THE CALIFORNIA STATE UNIVERSITY (“University”)  
REGARDING CAPACITY INTEREST IN CITY FACILITIES**

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This MOU was made by and between the City and the University on \_\_\_\_\_.

Recital

This MOU documents the University’s capacity interest (referenced in prior agreements as an “equity interest”) in the City’s Water Treatment Plant, potable water distribution system and treated water storage, wastewater collection system and wastewater treatment facility (Water Resource Recovery Facility or WRRF). This 2021 MOU replaces prior agreements regarding the University’s capacity interest in City facilities including the May 1, 2007 MOU, and the 1993 Agreement between the City of San Luis Obispo and California Polytechnic State University Regarding Water and Sewer Rates dated January 5, 1993, exhibit A, the Agreement between the City of San Luis Obispo and California Polytechnic State University Regarding Optional Equity Interest in the Water and Sewer Systems dated January 5, 1993, exhibit B, and the Memorandum of Understanding between the City of San Luis Obispo and California Polytechnic State University dated January 6, 1993, exhibit C.

**Capacity**

The City and University agree to communicate in the planning of its facilities to ensure that adequate capacity in the City’s Water Treatment Plant, potable water distribution system, treated water storage system, wastewater collection system, and wastewater treatment facility (Water Resource Recovery Facility) is available to meet the University’s current and projected needs. The University agrees to provide the City with its development, demand, and population projections annually in its partnership meetings<sup>1</sup> which shall include an analysis of the University’s water treatment, potable water distribution and storage system, and wastewater collection system and treatment capacity needs as planned and projected for the next five years. The City shall consider the University’s projections in its own master planning to better understand the University’s capacity needs in future facility upgrades and expansions.

**Capacity Interest**

The University maintains a capacity interest<sup>2</sup> in the City’s Water Treatment Plant, wastewater collection system, and Water Resource Recovery Facility to serve current and projected University needs. The University has done so by financially participating in required facility upgrades and expansions via capital contribution based on the University’s desired capacity percentage share of the facilities. Maintenance of said capacity interest, through fair share capital contributions, ensures that the City maintain available capacity to serve the University’s needs up to the amount of the capacity interest. As set forth in the 2021 Water and Sewer Rate Agreement, these capital contributions are reflected in the University’s water and sewer rates.



The University's capacity interest in the City's Water Treatment Plant shall be calculated as 1,000 acre-feet annually (893,000 gallons daily; peak day maximum flow rate of 1.44 million gallons). As the City's Water Treatment Plant can treat up to 16 million gallons daily, the University's capacity share is 9.0 percent of the facility. Maintenance of this capacity interest is subject to future capital contributions at 9.0 percent under separate agreement.

As of 2021, the University has not purchased a capacity interest in the City's water distribution or treated water storage system outside of the Water Treatment Plant. Prior to the University adding demand to the City's water distribution or treated water storage system, the University will identify water service needs, design, and construct necessary pipelines and storage, including University capital contributions to City systems, to mitigate all impacts to the City's water distribution or treated water storage system. New service cannot be provided to the University that could adversely affect downstream City customers.

With prior payments to the City in 1993, the University's capacity interest in the City's wastewater collection system is a peak flow rate of 1.2 million gallons per day. Maintenance of this capacity interest is subject to future capital contributions.

With prior payments to the City in 1993, the University's capacity interest in the City's Water Resource Recovery Facility shall be calculated as a maximum totalized dry weather flow of 0.471 million gallons per day<sup>3</sup>. As the City's Water Resource Recovery Facility can discharge up to 5.1 million gallons of treated effluent daily (up to 5.4 million gallons daily in 2022), the University's capacity share is 9.24 percent of the facility (reducing to 8.72 percent in 2022). Maintenance of this capacity interest is subject to future capital contributions at 8.72 percent under separate agreement.

### **Authority to Execute Memorandum of Understanding**

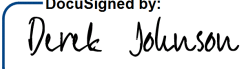
Both the City and University agree that each individual executing this MOU on behalf of each party is a person duly authorized and empowered to execute agreements for such party.

The parties hereto have caused this MOU to be executed the day and year first above written.

UNIVERSITY

CITY OF SAN LUIS OBISPO,  
A Municipal Corporation

DocuSigned by:  
  
By: \_\_\_\_\_  
AR559A325R014CA

DocuSigned by:  
  
By: \_\_\_\_\_  
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Dru Zachmeyer, Assistant Vice President  
Strategic Business Services

Derek Johnson, City Manager

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- 1 The Annual Partnership Meeting between the City and the University is defined in Part 4 of the "Agreement Between the City of San Luis Obispo and the Board of Trustees of the California State University Regarding Water and Sewer Rates" executed in 2021.
  - 2 Terms related to University capacity in the City's water and sewer systems are defined in the "Agreement Between the City of San Luis Obispo and the Board of Trustees of the California State University Regarding Capacity Interest in the Water and Sewer Systems" executed in 2021.
  - 3 In the City of San Luis Obispo, *dry weather* wastewater flows occur between April and November. Wet weather flows occur from December through March.