

SUPPLEMENTAL AGREEMENT FOR CONSTRUCTION AND OPERATION  
OF THE WHALE ROCK PROJECT, SAN LUIS OBISPO COUNTY



This agreement entered into this 12th day of  
December, 1960, between the State of California  
acting by and through the Director of Finance, hereinafter re-  
ferred to as "STATE" and the City of San Luis Obispo, herein-  
after referred to as "CITY".

W I T N E S S E T H:

WHEREAS, the State and the City entered into an agree-  
ment on the 7th day of November, 1957, for the construction  
and operation of a dam and reservoir in San Luis Obispo County,  
hereinafter referred to as the Whale Rock Project, and

WHEREAS, the agreement provides that after completion  
of the project the City shall operate and maintain it in a  
manner that is mutually satisfactory to the parties and as set  
forth in amendments and supplements to be entered into between  
the parties, and

WHEREAS, the agreement provides that it is the intent  
of the parties to execute amendments and supplements to said  
agreement which will include specific and detailed items re-  
lated to the construction and operation of the project,

NOW, THEREFORE, in consideration of the mutually de-  
pendent promises of the parties hereto it is agreed as follows:

I. The Whale Rock Commission is hereby established.  
Its membership, internal organization, powers and duties are  
as follows:

A. Membership:

1. Voting Members:

- (a) Director of Finance, State of California.
- (b) Director of Education, State of California
- (c) Director of Corrections, State of California
- (d) Mayor, City of San Luis Obispo
- (e) Administrative Officer, City of San Luis Obispo
- (f) Director of Finance, City of San Luis Obispo

2. Non-Voting Members:

- (a) Director of Water Resources, State of California
- (b) Water Superintendent, City of San Luis Obispo

B. Internal Organization:

1. Any member may be represented at any meeting of the Commission by a duly authorized representative.

2. A quorum shall consist of a majority of voting members. The concurrence of two representatives of the State and two representatives of the City shall be required before any action can be taken by the Commission.

3. The Commission shall select one of its members as Chairman and one as Secretary, to serve at the

pleasure of the Commission.

4. The Commission shall hold regular annual meetings to consider and approve the budget for the next fiscal year and special meetings when called by the chairman, or by any three voting members, on five (5) days' notice.

5. All meetings shall be held in the City Hall of the City of San Luis Obispo unless otherwise specified in the notice of meeting.

C. Powers and Duties of the Commission:

1. Establish the policies with regard to the operation and maintenance of the project.

2. Contract for the sale of excess water from the project or rental of excess capacity of any project facilities, provided any such contract shall be subject to the approval of the City and the State. Any such sales or rental shall be made only on a year to year basis and the State and the City shall each annually declare in advance whether any excess is available for sale. In case of deficiency on the part of any project owner or owners, said project owner or owners shall have first call on the purchase of excess water, before such excess water is sold to outside agencies. The net income derived from such sales shall be credited to each agency in proportion to its percentage of the total excess available for sale, provided, however, that if the State or the City declares any water excess for less than a full year, or otherwise conditions its availability then the net income credited to said party shall be reduced to the extent that the

saleability of the excess water is affected by the condition imposed.

3. Consider and approve the annual budget for the project and any proposed amendments and allocate the annual cost in accordance with the proportionate use of facilities allocated to each participating agency as set forth in Table 3 on page 51 of the report issued by the State of California, Department of Water Resources, dated February, 1957, entitled "Report on Estimated Cost of Whale Rock Project", a copy of which is on file at the office of the Department of Water Resources in Sacramento, California.

4. Do all things otherwise necessary to conduct the business and affairs of the Whale Rock Project.

## II. Operation of the Whale Rock Project.

A. City of San Luis Obispo, in accordance with the policies established by the commission and the provisions of the agreement dated November 7, 1957, between the State of California, acting by and through the Director of Finance, and the City of San Luis Obispo, and pursuant to the approved budget, shall operate and maintain the project, perform repairs and replacements thereon, and construct additions and improvements thereto, under the charter of the City of San Luis Obispo. Provided, however, this subsection shall not become effective until July 1, 1961 or sooner if the Commission determines the project is ready for operation.

B. Water within the entitlement of the parties

as set forth in the agreement dated November 7, 1957, between the State and the City, shall be delivered to the City, California State Polytechnic College and California Men's Colony (herein referred to as the participating agencies) at the times and in the quantities requested by each; provided, that if the total of the quantities requested will exceed the capacity of any project facility, the requests shall be adjusted so that the percentage of capacity of the facility to be utilized by each participating agency will not exceed the percentage of the capacity allocated to each in Table 3 of the Report referred to above.

C. Written advance notice shall be given the City of the dates and quantities of water requested, provided that oral requests may be made when necessary and confirmed in writing.

### III. Fiscal Matters and Procedures

A. The City shall prepare the proposed annual budget in the form adopted by the Commission and distribute copies thereof to the members at least one month prior to annual meeting.

#### B. Allocation of Cost

1. Cost of electrical energy for pumping and any other costs that vary directly with the quantity of water delivered as determined by the Commission shall be allocated to the participating agencies on the basis of quantities of water delivered to each.

2. All other operation and maintenance



costs and costs of major repairs and replacements shall be allocated on the basis of percentages of capacity allocated to each participating agency in Table 3 of the Report referred to above.

3. The cost of providing water for downstream users shall be allocated on the same basis that the original cost of the dam was allocated.

4. Cost of additions and improvements shall be allocated as mutually agreed upon by the City and the State.

5. Moneys derived from the sale or lease of any project properties or facilities or other revenues shall be deposited in the city treasury in a separate account to the credit of the Whale Rock Project Fund and together with any interest thereon shall be applied first to pay direct costs incurred in producing the revenue, and second to the other operation and maintenance costs and costs of major repairs and replacements referred to in subparagraph 2 above of those facilities used to produce the revenue.

6. Any money in excess of project needs may be distributed to the agencies in proportion to their respective interests in such excess.

C. Payment and Expenditure of Project Funds

1. The participating agencies shall contribute quarterly in advance their allocated share of the costs. This contribution shall be deposited on or before the first day of each quarter in a separate account to the credit

of the Whale Rock Project Fund in the city treasury.

2. The City may withdraw and expend any monies in the Whale Rock Project Funds to pay the actual cost of project operation and maintenance, major repairs and replacements thereon, in accordance with the items set forth in the approved annual budget. Costs incurred by the participating parties and the Commission in connection with the project shall be part of the cost of project operation, if in accordance with the approved annual budget.

APPROVAL RECOMMENDED:  
Department of Corrections  
By Robert J. Smith  
Chief, Management Services Division

STATE OF CALIFORNIA  
John E. Carr, Director  
Department of Finance

By J. H. Mumford  
DEPUTY DIRECTOR OF FINANCE

CITY OF SAN LUIS OBISPO

APPROVAL RECOMMENDED:  
Department of Education  
By Ray E. Simpson  
Edna Hogan, Deputy

By James L. Torkelson  
MAYOR

ATTEST:

APPROVAL RECOMMENDED:  
Department of Water Resources  
By James F. Wright  
JAMES F. WRIGHT, Deputy Director  
Administration and Management

John F. Martinez  
City Clerk

APPROVED  
FOR  
FORM AND LEGALITY

ADMINISTRATIVE AND SENIOR  
DEPARTMENT OF EDUCATION

APPROVED
FEB 23 1961

DEPARTMENT OF EDUCATION	ADMINISTRATIVE AND SENIOR
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