

**AGREEMENT BETWEEN THE CITY AND YOLO COUNTY  
TO ESTABLISH SPECIAL INDUSTRIAL SEWER RATES  
FOR YOLO COUNTY'S CENTRAL LANDFILL**

This Agreement is entered into as of the 2<sup>nd</sup> day of May 2023, by and between the City of Davis ("City") and the County of Yolo ("County") in connection with the facts set forth in the recitals below.

**RECITALS**

- A. The City owns and operates a Wastewater Treatment Plant ("WWTP") which provides wastewater treatment to sewer users, including industrial users such as landfills.
- B. Chapter 33 of the City's Municipal Code, commonly known as the City's Sewers and Sewage Disposal Ordinance, sets forth the City's standard industrial sewer rates, as adopted by the City Council based on the 2017 Comprehensive Sewer Rate Study Report ("2017 Rate Study"), for industrial users that discharge wastewater into the WWTP. The standard industrial sewer rate is comprised of a fixed component "Customer Related" (\$3.49) and a variable component. The variable component is currently based on three factors: (1) Biochemical Oxygen Demand ("BOD"), (2) Total Suspended Solids ("TSS"), and (3) flow. Also built into the variable component is the cost for capital and maintenance of the WWTP's Collection system. The draft 2022 Comprehensive Sewer Rate Study Report includes an additional variable component of Ammonia as N ("NH<sub>3</sub>-N"), which is anticipated to be built into the City's sewer rate for industrial customers.
- C. The Sewers and Sewage Disposal Ordinance authorizes, at section 33.03.150 of the Davis Municipal Code, special contracts between the City and any industrial user whereby the City may accept for treatment industrial waste of unusual strength, composition or quantity at a charge fixed by the special contract provided the waste does not violate any pretreatment standard. The amount charged by the City pursuant to the special contract is an amount sufficient to compensate the City for its cost of providing, operating, and maintaining the facilities serving the contracting industrial user. The City and County entered into an agreement (County Agreement No. 19-118) on June 4, 2019, which is currently set to expire on May 20, 2023, to establish an industrial sewer rate for the County.

- D. Each variable component unit rate can be determined by dividing the total cost allocation by the number of billable units. For the 2017 Rate Study those costs are calculated as such:
1. FLOW:  $\$9,401,276 / 2,117,489 \text{ CCF} = \$4.44 \text{ per CCF}$
  2. BOD:  $\$2,169,525 / 3,029,500 \text{ lbs. BOD} = \$0.72 \text{ per lb. BOD}$
  3. TSS:  $\$2,169,525 / 4,197,500 \text{ lbs. TSS} = \$0.52 \text{ per lb. TSS}$
  4. Customer related (fixed): As described in 2017 Rate Study = \$3.49
- E. Since 1991, the County's Central Landfill has periodically discharged leachate/stormwater to the WWTP for treatment and disposal by the City. While the County does not pretreat its wastewater prior to discharge, it does not use the City's collection system to transport the leachate/stormwater to the WWTP. In this unique circumstance, a reduction in the flow portion of the sewer rate, which comprises approximately 30% of the flow variable charge, would more accurately reflect the City's actual cost of treating and disposing the County's wastewater discharges from the County's Central Landfill. As such, a 30% discount shall be applied to the flow portion and calculated as  $\$4.44 - 30\% = \$3.11 \text{ per CCF}$ .
- F. In anticipation of adoption of new City sewer rates in 2023 based upon the City's 2022 Wastewater Rate Study and the strength of the County discharge, County's rates will be amended to reflect all new rates, variable components, commercial classifications, calculations, and strengths associated with industrial discharges or other similarly assigned waste classification based on strengths developed in the 2022 Wastewater Rate Study with the 30% discount to the flow portion of the rate.
- G. The County's discharges to the WWTP are subject to the conditions imposed by its Wastewater Discharge Permit No. 104-SIU ("Discharge Permit") and any subsequent issued permits, by the provisions of Chapter 33 of the City's Municipal Code, and by local, state, and federal laws and regulations.
- H. The purpose of the Agreement is to terminate Agreement No. 19-118 and establish, pursuant to section 33.03.150 of the City's Municipal Code, revised rates to be paid by the County for the City's treatment and disposal of the County's unusual strength and composition wastewater at the WWTP. This Agreement is subject to the County's Discharge Permit, and does not modify the Discharge Permit in any way.

NOW, THEREFORE, the City and the County agree as follows:

1. Contracted Industrial Sewer Rate.

- a. Agreement No. 19-118 is hereby terminated by the City and County and replaced with this Agreement.
  - b. The County agrees to pay to the City a fixed monthly charge of \$3.49 as determined by the adopted 2017 Rate Study.
  - c. The County also agrees to pay to the City an additional variable rate as determined by the actual strength characteristics averaged and flow of the wastewater discharged, evaluated and billed each calendar quarter in accordance with the following rate schedule:
    - i. FLOW:  $\$9,401,276 / 2,117,489 \text{ CCF} = \$3.11 \text{ per CCF}$
    - ii. BOD:  $\$2,169,525 / 3,029,500 \text{ lbs. BOD} = \$0.72 \text{ per lb. BOD}$
    - iii. TSS:  $\$2,169,525 / 4,197,500 \text{ lbs. TSS} = \$0.52 \text{ per lb. TSS}$
  - d. The fixed monthly charge and the variable rate described in Section 1, subsections a. and b. above are hereafter referred as the "Contracted Rates."
  - e. Each of the monthly and quarterly charges shall be due and payable within 30 days of receipt of a bill and any other terms and conditions of the City's sewer system invoicing policy. The foregoing Contracted Rates shall apply to County sewer services beginning November 1, 2022 and continuing thereafter through the term of this Agreement, except as the Contracted Rates may be amended as provided herein.
2. Adjustment to Contracted Rates. The Contracted Rates are subject to adjustment commensurate with any City Council adjustment to the standard industrial sewer rates codified in Chapter 33 of the City's Municipal Code. The Wastewater Division Manager shall notify the County in writing of any adjustment to the Contracted Rates, including updated calculations for contracted unit rate determination for wastewater of unusual strength and composition, and a written amendment to this Agreement shall not be necessary.
  3. Changed Circumstances. This Agreement is subject to and contingent upon the facts set forth in the Recitals in this Agreement. In the event circumstances change, for example, if the County uses the City's collection system to transport its leachate/stormwater to the WWTP, then the City reserves the right, in its sole discretion, to amend or terminate this Agreement. The County shall comply with all testing and reporting procedures set forth in its Discharge Permit in Chapter 33 of the City's Municipal Code, and in state and federal laws and regulations; nothing in this Agreement changes or affects those notification and report in procedures or the County's obligations with respect to those procedures.

4. Compliance with Discharge Permit, Laws, and Regulations. This Agreement is subject to the County's compliance with the conditions of its Discharge Permit, and with local, state, and federal laws and regulations. The sole purpose of this Agreement is to establish the Contracted Rate, and nothing in this Agreement shall be construed or interpreted to excuse the County's compliance with the conditions of its Discharge Permit or with local, state or federal laws or regulations. **THIS AGREEMENT DOES NOT CHANGE OR IN ANYWAY AFFECT ANY OF THE COUNTY'S OBLIGATIONS OR RESPONSIBILITIES AS SET FORTH IN THE COUNTY'S DISCHARGE PERMIT, AND THE COUNTY MUST COMPLY WITH ALL PROVISIONS OF ITS DISCHARGE PERMIT.**
5. Term. The term of this Agreement shall be valid until April 5, 2028, a period of 5 years, unless it is modified or terminated at an earlier time in accordance with this Agreement. The City may terminate this Agreement at any time if it determines such termination is necessary to comply with any applicable law or regulation, including but not limited to the City's Municipal Code.
6. Conflicts. If any provision of this Agreement conflicts with any provision in the Discharge Permit, or with any provision of local, state, or federal law or regulation, except as to the Contracted Rate, the provision in the Discharge Permit, or in the local, state, or federal law or regulation, shall control.
7. Entire Agreement. This Agreement represents the entire agreement of the parties with respect to the Contracted Rate, and supersedes any and all other agreements regarding the Contracted Rate, whether oral or written, between the parties.
8. Amendments. Except as provided in Sections 2 and 3, this Agreement may be amended at any time by a subsequent written agreement signed by both parties.
9. Assignment. The County may not assign this Agreement or any right or duty hereunder without the City's express written approval.
10. Notices. Any notice or demand pertaining to this Agreement, with the exception of urgent notifications, shall be given by mail at the following addresses:

IF TO THE CITY:

City of Davis  
Public Works Utilities & Operations Dept.  
1717 Fifth Street  
Davis, CA 95616

IF TO THE COUNTY:

Yolo County Central Landfill  
44090 County Road 28H  
Woodland, CA 95776

Any urgent notifications shall be given by following the procedures set forth in the County's Wastewater Discharge Permit or in Chapter 33 of the City's Municipal Code.

11. Attorneys' Fees. If any party brings any action or proceeding against the other party arising out of this Agreement, or is made a party to any action or proceeding brought by the other party, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, its reasonable attorneys' fees as fixed by the court in such action or proceeding or in any separate action or proceeding brought to recover such attorneys' fees.
12. Authorization. The persons executing this Agreement represent and agree that they have full authorization to execute this Agreement on behalf of the parties and to bind the parties to the rights and obligations contained in this Agreement.
13. California Law. This Agreement is entered into and shall be governed and interpreted pursuant to the laws of the State of California. Venue for any action arising out of this Agreement shall be in Yolo County.
14. Captions. The captions describing the sections of this Agreement are provided for convenience only, and shall not have a bearing on the interpretation of any section of this Agreement.
15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one Agreement.  
Time of Essence. Time is of the essence in each and every provision of this Agreement.

[Signatures on Following Page]

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THIS Agreement to be executed as of the date first above written.

City of Davis

Yolo County

By:

Stan Gryczko  
PWUO Director

By:

Oscar E. Villegas  
Chair, Board of Supervisors

Attest:

Attest:

By:

Zoe Mirable, City Clerk


By:

Julie Dachtler, Clerk  
Senior Deputy (Seal)

Approved as to Form:

Approved as to Form:

By:   
Inder Khalsa  
City Attorney

By:   
Kimberly Hood  
Assistant County Counsel