



# City of Tulare

## Board of Public Utilities Commissioners Meeting Agenda

**Commissioners**  
Ray Fonseca, President  
Tony Sozinho, Vice President  
Renee Soto  
Blake Wilbur  
Brian Nunes

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**Tulare Public Library & Council Chamber**  
491 North M Street, Tulare CA 93274  
[www.tulare.ca.gov](http://www.tulare.ca.gov)

**Thursday, November 21, 2024**  
**4:00 p.m. Regular Meeting**

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Regular meetings of the Board of Public Utilities Commissioners are held on the first and third Thursdays of each month in the Council Chamber located in the Tulare Public Library at 491 North M Street, Tulare, subject to cancellation. Additional meetings of the Board may be called as needed.

Attend meetings in person or access the meeting live via YouTube. For those that wish to provide public comment while not physically in attendance, call **(559) 366-1849** during Public Comment and/or Public Hearing and General Business items. Please note that there will be approximately a 20-second delay in broadcast for viewers. When calling in, mute the device used for viewing the meeting.

Those who wish to address the Board are encouraged to complete a public comment card. Each person is permitted three minutes to speak. Depending on the extent of the agenda and the number of persons wishing to speak on an issue, the chair may, at the beginning of the item, limit the time for individual comments. When deemed necessary, the chair may extend the time allowed without objection from the Board.

Pursuant to the Americans with Disabilities Act, persons with a disability who require a disability-related modification or accommodation in order to participate in a meeting, including auxiliary aids or services, may request such modification from the City Clerk's Office at (559) 684-4200. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the meeting.

City of Tulare YouTube Channel:

[https://www.youtube.com/channel/UCdWZiv2o7do1JY0OvGe1\\_aw/videos](https://www.youtube.com/channel/UCdWZiv2o7do1JY0OvGe1_aw/videos)



Documents related to items on the agenda are accessible on the City's website at [www.tulare.ca.gov](http://www.tulare.ca.gov) and available for viewing at the entrance of the Council Chamber.

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- 1. CALL TO ORDER**
  - 2. PLEDGE OF ALLEGIANCE AND INVOCATION**
  - 3. PUBLIC COMMENT** - Members of the public wishing to comment on any item not appearing on the agenda may address the Board at this time. State law prevents the Board from acting on any matter not on the agenda; however, your comments may be referred to staff for follow up. This is also the time for the public to comment on items listed under the Consent Calendar or to request an item from the Consent Calendar be pulled for discussion purposes. Comments related to Public Hearing and General Business items will be heard at the time those items are discussed. In fairness to all who wish to speak, public comment is limited to a total of fifteen minutes with each speaker allowed three minutes, unless otherwise extended by the Board. Please begin your comments by stating your name and providing your city of residence. For those that wish to provide public comment while viewing the meeting online, you may call (559) 366-1849. Please note that there will be approximately a 20-second delay in broadcast for viewers. When calling in, mute the device used for viewing the meeting.

4. **COMMUNICATIONS** - Communications are to be submitted to the City Manager's Office ten days prior to a Board meeting to be considered for this section of the agenda. No action will be taken on matters listed under Communications; however, the Board may direct staff to schedule issues raised during Communications for a future agenda.
5. **CONSENT CALENDAR** - All matters listed under the Consent Calendar are considered by the Board to be routine and will be enacted in one motion without discussion. If discussion is desired, that item may be removed and considered separately.
  - 5.1 **Approval of Board Meeting Minutes.**  
**Recommended Action:** Approve the minutes of the special and/or regular meeting of November 7, 2024. [M. Hermann]
  - 5.2 **Public Works Performance Reports for October 2024.**  
**Recommended Action:** Receive the Public Works performance reports for October 2024. [A. Bettencourt]
  - 5.3 **System Loss Quarterly Report.**  
**Recommended Action:** Receive the quarterly Potable Water Pumping and Metered Delivery Report. [A. Bettencourt]
6. **GENERAL BUSINESS** - Comments related to General Business items are limited to three minutes per speaker, for a maximum of 30 minutes per item, unless otherwise extended by the Board. For those that wish to provide public comment while viewing the meeting online, you may call (559) 366-1849. Please note that there will be approximately a 20-second delay in broadcast for viewers. When calling in, mute the device used for viewing the meeting.
  - 6.1 **Revisions to Chapter 7.09 (Wells) of the Tulare Municipal Code.**  
**Recommended Action:** Review the proposed revisions to Chapter 7.09 (Wells) of the Tulare Municipal Code and make recommendations to the City Council in regard to said revisions. [T. Whitfield]
  - 6.2 **Sewer Lift Station PLC Upgrades.**  
**Recommended Action:** Award and authorize the City Manager to sign a contract with Telstar Instruments, of Hanford, CA for CIP Project SW0008, Sewer Lift Stations PLC / SCADA Upgrades in the amount of \$247,620.00; and authorize the City Manager or designee to approve contract change orders in an amount not to exceed 10% (\$24,762.00) of the task order amount. [T. Doyle]
  - 6.3 **Award CMMS Contract to Brightly Software Inc.**  
**Recommended Action:** Award and authorize the City Manager to sign a three-year contract with Brightly Software Inc. in the amount of \$107,164.61 for a Computerized Maintenance Management System (CMMS) for the City's Water Division. Authorize the City Manager or designee to approve contract change orders in an amount not to exceed 10% (\$10,716.46). [A. Bettencourt]
7. **ITEMS OF INTEREST**
8. **ADJOURNMENT**


The next regularly scheduled meeting of the Board of Public Utilities Commissioners is Thursday, December 5, 2024, at 4:00 p.m. in the Council Chamber, 491 North M Street, Tulare.

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**AFFIDAVIT OF POSTING AGENDA**

I hereby certify, in conformance with Government Code Sections 54954.2, this agenda was posted in the kiosk at the front of City Hall, 411 E. Kern Avenue, as well as on the City of Tulare's website ([www.tulare.ca.gov](http://www.tulare.ca.gov)).

POSTED: Monday, November 18, 2024, at 1:30 p.m.

  
Melissa Hermann, Chief Deputy City Clerk

**CITY OF TULARE  
BOARD OF PUBLIC UTILITIES COMMISSIONERS  
MEETING MINUTES**

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**Tulare Public Library & Council Chamber  
491 North M Street, Tulare**

**Thursday, November 07, 2024  
4:00 p.m. Regular Meeting**

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Proper notice of this meeting was given pursuant to Government Code Section 54954.2.

**COMMISSIONERS PRESENT:** President Ray Fonseca  
Vice President Tony Sozinho  
Commissioner Brian Nunes  
Commissioner Renee Soto  
Commissioner Blake Wilbur

**STAFF PRESENT:** City Manager Marc Mondell; Assistant City Attorney Megan Crouch; Chief Deputy City Clerk Melissa Hermann; Public Works Director Trisha Whitfield; Assistant Finance Director Melanie Gaboardi; Senior Management Analyst Andrew Bettencourt

**1. CALL TO ORDER**

President Fonseca called to order the regular meeting of the Board of Public Utilities Commissioners at 4:00 p.m. in the Council Chamber located at 491 North M Street.

**2. PLEDGE OF ALLEGIANCE AND INVOCATION**

Vice President Sozinho led the Pledge of Allegiance and an invocation was given by Commissioner Soto.

**3. PUBLIC COMMENT**

There were no public comments.

**4. COMMUNICATIONS**

There were no communications.

**5. CONSENT CALENDAR**

It was moved by Commissioner Wilbur, seconded by Commissioner Soto, and unanimously carried that the items on the Consent Calendar be approved as presented.

**5.1 Approval of Board Meeting Minutes.**

**Recommended Action:** Approve the minutes of the special and/or regular meetings of October 17, 2024. [M. Hermann]

**6. GENERAL BUSINESS**

**6.1 Street Sweeping Contract Renewal.**

**Recommended Action:** Award and authorize the City Manager to sign a one-year contract extension with SCA (Sweeping Corporation of America) of CA, LLC in the amount of \$596,774.08 subject to minor conforming changes acceptable to the City Manager and City Attorney to provide street sweeping services for the City of Tulare; and authorize the

City Manager or designee to approve contract change orders in an amount not to exceed 10% of the contract amount (\$59,677.41).

**Presented By:** Senior Management Analyst Andrew Bettencourt

**Public Comment:** There were no public comments.

**Board Action:** It was moved by Vice President Sozinho, seconded by Commissioner Wilbur, and unanimously carried to approve the item as presented.

**6.2 Award CMMS Contract to Brightly Software Inc.**

**Recommended Action:** Award and authorize the City Manager to sign a two-year contract with Brightly Software Inc. in the amount of \$78,477.87 for a Computerized Maintenance Management System (CMMS) for the City's Water Division; and authorize the City Manager or designee to approve contract change orders in an amount not to exceed 10% of the contract amount (\$7,847.79).

**Presented By:** Senior Management Analyst Andrew Bettencourt

**Public Comment:** There were no public comments.

**Board Action:** It was moved by President Fonseca, seconded by Commissioner Nunes, and unanimously carried to approve the item as presented.

**7. ITEMS OF INTEREST**

Items of interest were discussed amongst the Board and staff.

**8. ADJOURNMENT**

Seeing no further business to discuss, President Fonseca adjourned the regular meeting at 4:29 p.m.

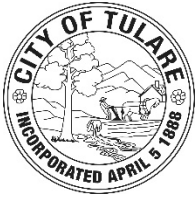
These meeting minutes were approved by the Board on November 21, 2024.

\_\_\_\_\_  
Ray Fonseca, President

ATTEST:

Marc Mondell, City Clerk

\_\_\_\_\_  
By Melissa Hermann, Chief Deputy City Clerk



# Staff Report

**Meeting:** Board of Public Utilities Commissioners

**Date:** November 21, 2024

**Item #: 5.2**  
**Consent**

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**Department:** Public Works

**Submitted by:** Andrew Bettencourt, Senior Management Analyst

**Agenda Title:** Public Works Performance Reports for October 2024

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## RECOMMENDED ACTION

Receive the Public Works performance reports for October 2024.

## SUMMARY

Public Works first reported performance dashboards for each of its divisions to the Board of Public Utilities in August 2015 with the intention of inviting additional transparency into the maintenance and operations activities of each of the divisions.

### Solid Waste

Overall tonnage was down in October 2024 compared to October 2023. The total tonnage in October 2024 was 5,520.3 tons, a decrease of 3.1% compared to October 2023 (5,696.9 tons).

Residential tonnage increased in October compared to a year ago. There were 2,938.2 tons collected from residential customers in October 2024, compared to 2,874.6 tons in October 2023, marking an increase of 2.2%.

Commercial tonnage was down compared to a year ago. In October 2024, there were 1,305.8 tons collected from commercial accounts, marking a 9.2% decrease from October 2023 (1,438.4 tons).

Roll-off tonnage also decreased compared to 2023. There were 1,234.8 tons collected from roll-off operations in October, marking a 10.8% decrease from October 2023 (1,383.9 tons).

Overall, the Solid Waste division's recycling rate for October 2024 decreased compared to October 2023. The diversion rate for October 2024 was 27 percent (16% green waste, 10% recyclables, 1% food waste/compost). The diversion rate for October 2023 was 32 percent (18% green waste, 11% recyclables, 3% food waste/compost).

The City had a total of 4,016.0 tons of trash (to the landfill), resulting in a rate of 3.59 pounds per person per day for the month of October, marking a 3.5% increase from October 2023 (3.47). The target disposal rate for the City set by the State is 6.0 pounds per person per day.

Overall, the City of Tulare has collected 58,253.4 tons in 2024, a decrease of 1.4% compared to 2023 through the first nine months (59,107.1 tons in 2023). The City has sent 41,360.4 tons to the landfill through October, marking a 1.0% decrease compared to 2023 (41,785.3 tons).

### Water

Water delivery volumes are delayed by one month due to the availability of billing data. In September 2024, water delivery, or water "sold," totaled 489.5 million gallons, 10.6% higher compared to September 2023 (442.4 million gallons). Potable water production increased compared to last year. There were 507.1 million gallons pumped in September, marking a 0.4% increase from September 2023 (505.2 million gallons).

There was a difference of 17.6 million gallons between pumped water (507.1 million gallons) versus delivered (489.5 million gallons), which represents a system loss of 3.5%.

The primary reason why there is a discrepancy between pumped water and delivered water is when meters are read. Production well data is on a strict calendar month basis. With a growing number of residential meters going to an AMI read (meter to base station), we are developing two distinct cycles – pumped by the calendar and metered from the 15<sup>th</sup> of the reporting month to the 14<sup>th</sup> of the following month.

In October 2024, the average standing water level depth was 218 feet, representing a 13-foot drop from a year ago (205 feet). We are 9 feet higher, though, compared to October 2022 (227 feet). The average standing water level depth went up 5 feet compared to September 2024 (223 feet).

### **Conservation**

The overall gross gallons per capita was 234 gallons per person per day in September 2024, 0.3% lower than it was in September 2023 (235).

Residential per capita increased compared to a year ago. The residential per capita in September 2024 was 130 gallons per person per day. That is 10.0% higher than it was in September 2023 (118 gallons per person per day). The residential gallons per capita looks specifically at residential water use only.

There were 307 citations handed out in October. There were 102 citations that resulted in a fine (second violations or more). Those fines totaled \$6,445.

### **Sewer Collections**

Preventative Maintenance accounted for 69% of all working man hours in October. Corrective maintenance accounted for 2% of all working man hours in October.

In October, 60,400 of sewer lines were cleaned, and 11,750 feet of sewer lines were televised (preventative maintenance operations).

Approximately 11% of staff's time was spent on administrative services.

### **Wastewater Treatment Plant**

In October, the domestic plant's daily influent average was 4.05 million gallons. The domestic plant's capacity is 5.5 million gallons, and when the daily influent average is within 80 percent (4.4 million gallons) of capacity, improvements to the plant's capacity should be a priority.

The industrial plant's daily influent average was 7.50 million gallons in October. The industrial plant's capacity is 12 million gallons, and no daily influent average has been close to the 80-percent mark (9.6 million gallons).

Efficiency against BOD was 98.0% in October. The combined BOD effluent was 46.0 mg/l, which is not within the state compliance level (less than 40 mg/l).

Efficiency against TSS was 96.2% in October. The combined TSS effluent was 28.2 mg/l, which is within the state compliance level (less than 40 mg/l).

Efficiency against Nitrogen was 90.8% in September. The combined Nitrogen effluent was 13.00 mg/l, which is right at the state compliance level (less than 13 mg/l).

We do not have the final nitrogen numbers for October as tests are still being completed. We will report the Nitrogen effluent average and efficiency ratings for October next month.

Operationally, the WWTP completed 294 preventative maintenance work orders and 8 corrective work orders in October. Overall, 130 of the work orders were completed for the Domestic side of the facility and 172 for the Industrial side, 43% and 57%, respectively.

**FISCAL IMPACT & FUNDING SOURCES**

There is no fiscal impact associated with this action.

**LEGAL REVIEW**

This item does not require legal review.

**ALTERNATIVE ACTION**

1. Approve with changes
2. Deny
3. Table

**ATTACHMENTS**

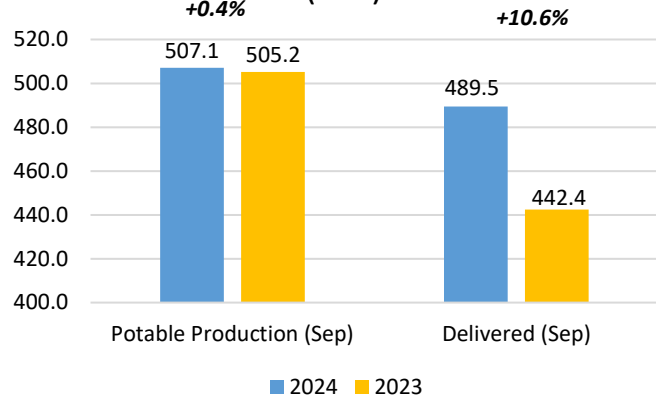
1. BPU Public Works Performance Dashboard Graphic

Reviewed/Approved: 

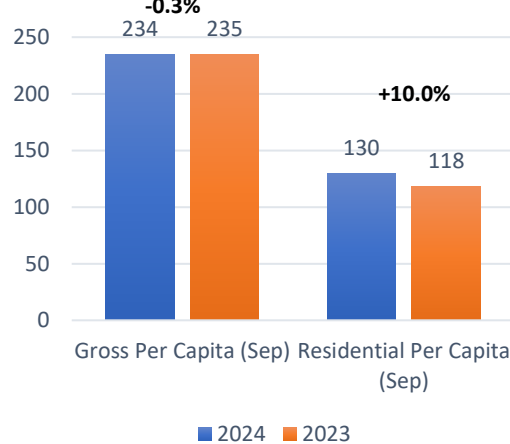


**City of Tulare Water Division  
October 2024 Dashboard**

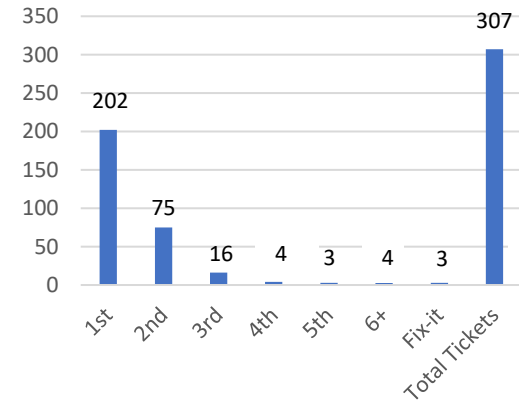
**Production & Delivery Volumes (MG)**



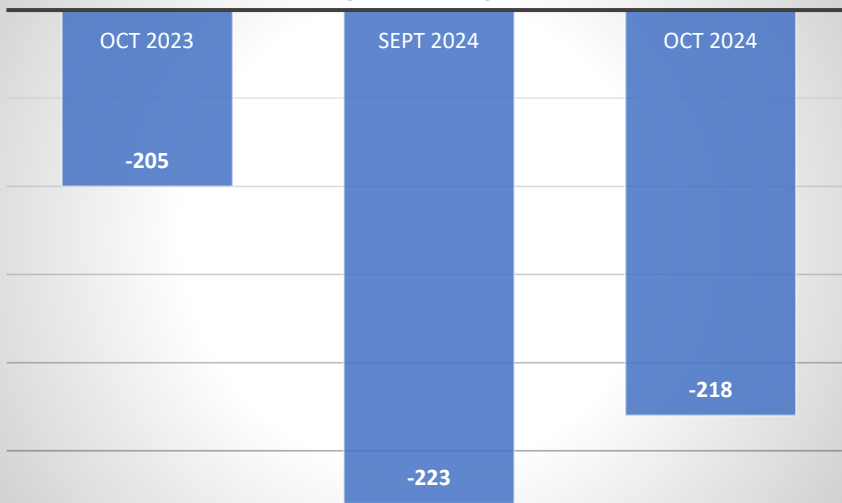
**GPCD & Residential GPCD**



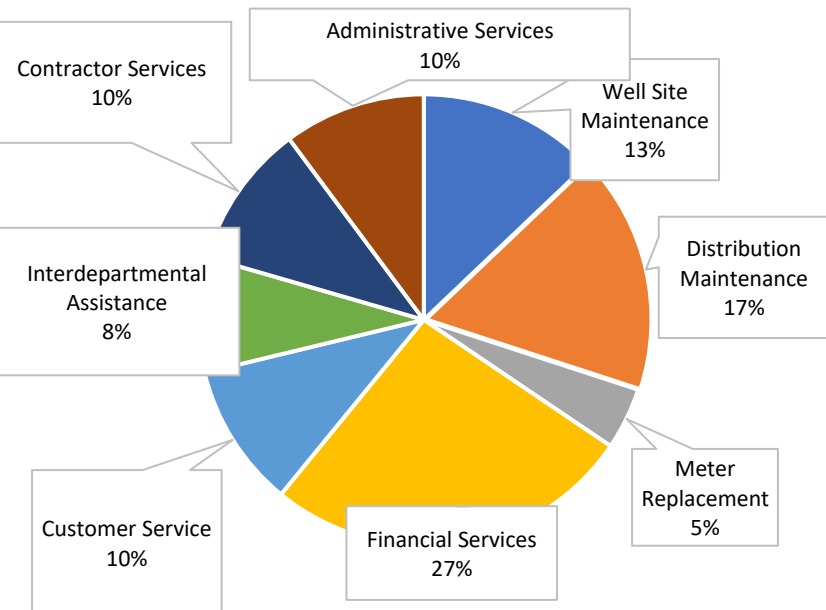
**October Water Waste Tickets**



**Average Standing Water Level Depth (in feet)**

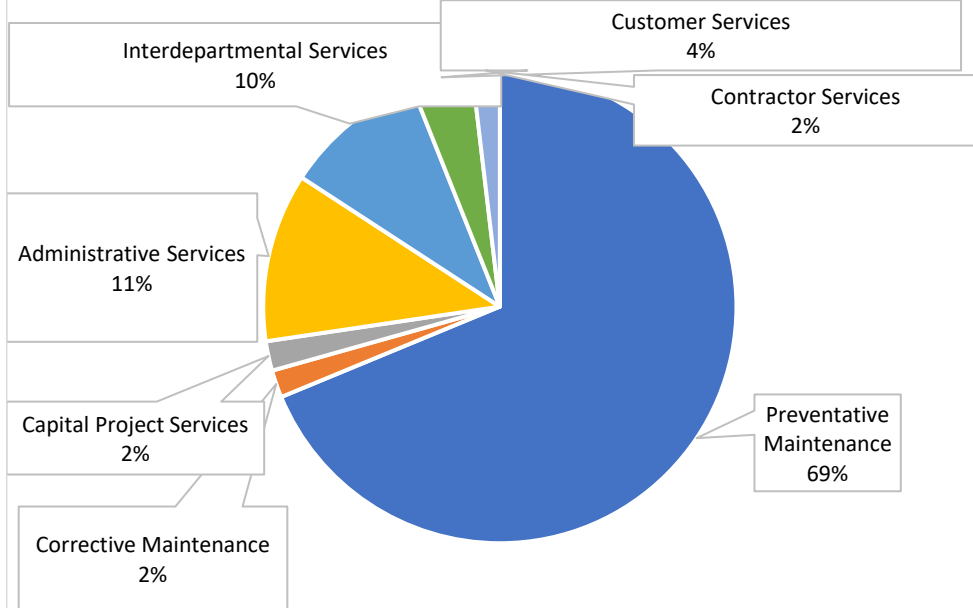


**October 2024 Water Maintenance Man Hours**

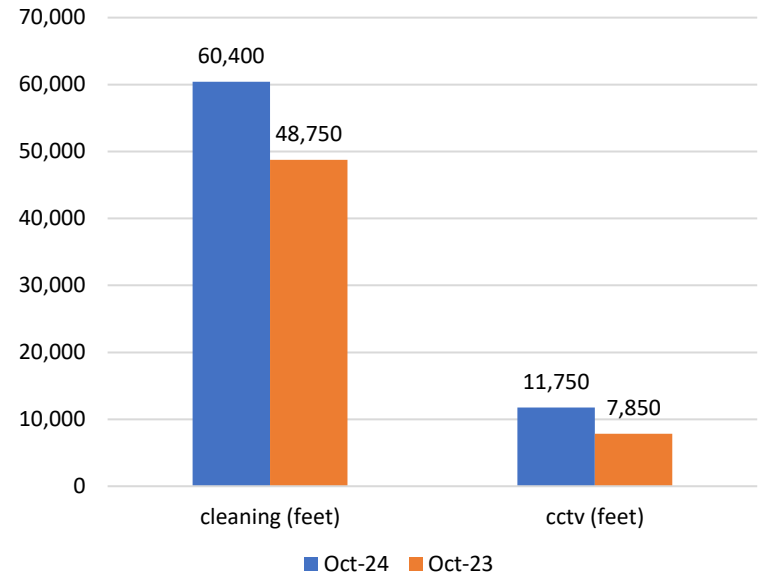


City of Tulare Sewer Collections/Solid Waste - October 2024 Dashboard

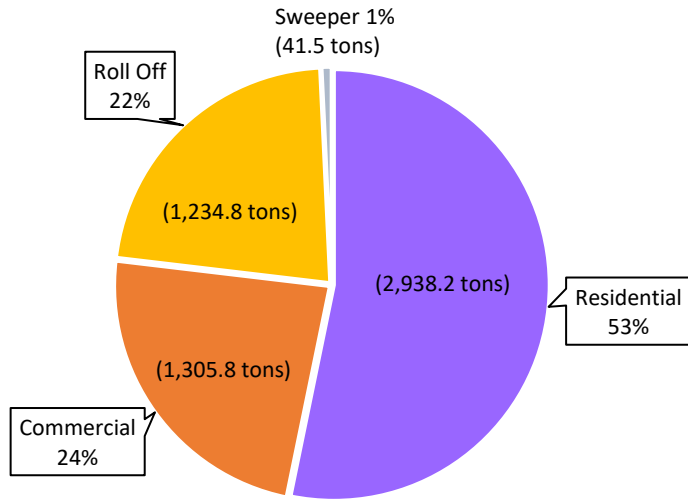
Sewer Collections Man Hour Distribution



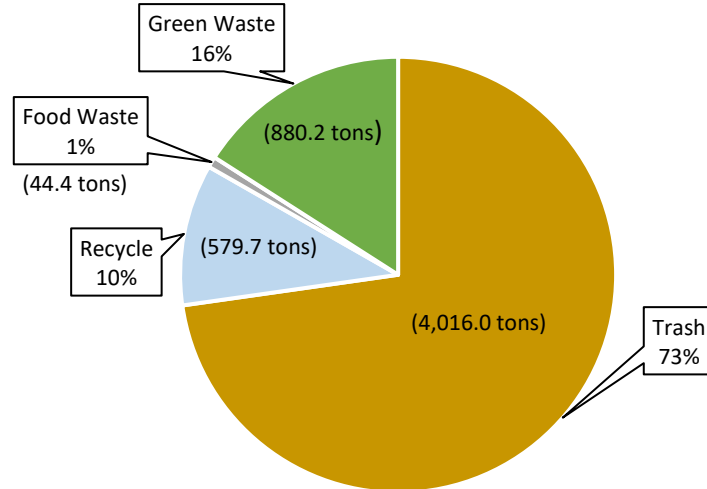
Linear Maintenance Footage



Tonnage by Division

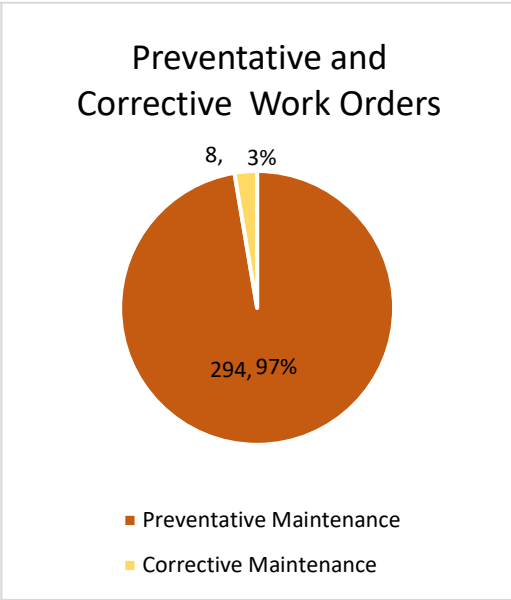
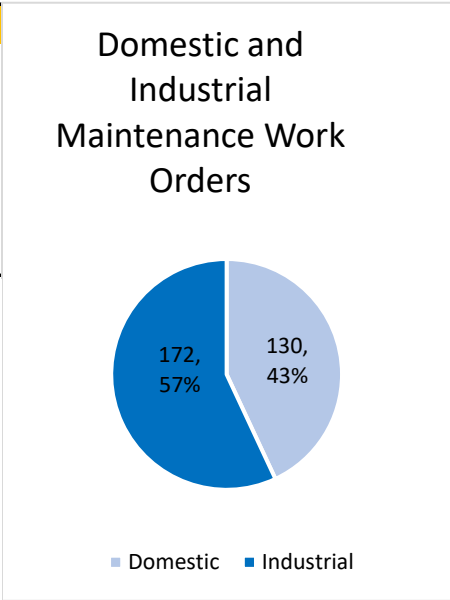


Tonnage by Type

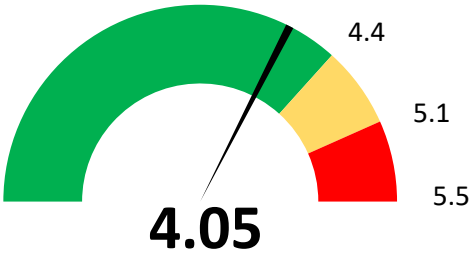


**City of Tulare WWTP Division  
October 2024 Dashboard**

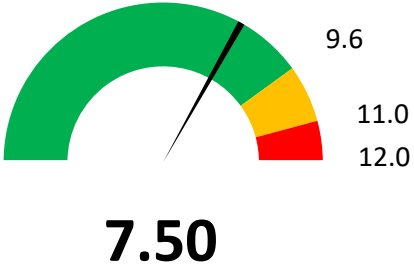
Compliance			
	BOD	TSS	Nitrogen
	<40mg/l	<40mg/l	<13mg/l
Efficiency	98.0%	96.2%	90.8%
Sample Avg (mg/l)	46.0	28.2	13.00

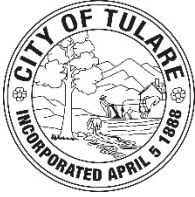


Domestic Influent Daily Average (MG)



Industrial Influent Daily Average (MG)





# Staff Report

**Meeting:** Board of Public Utilities Commissioners

**Date:** November 21, 2024

**Department:** Public Works  
**Submitted by:** Andrew Bettencourt, Senior Management Analyst  
**Agenda Title:** System Loss Quarterly Report

## RECOMMENDED ACTION

Receive the quarterly Potable Water Pumping and Metered Delivery Report.

## SUMMARY

System loss is the difference between the volume of water pumped from the city’s municipal well system and the volume of water delivered to customers through their retail meters. This difference represents non-revenue water and is a factor indicative of the integrity of the water distribution system. Also included is the quarterly Public Works staff reports on the difference between potable water pumped and metered water deliveries over a rolling twelve month period.

Periodically, some months have retail meter reads for periods longer or shorter than 30 or 31 days. Production well meter data is collected on a strict calendar month basis (1<sup>st</sup> through the 30<sup>th</sup> for example). This, at times, produces irregular measurements, such as metered deliveries that exceed metered production. Some months have produced irregular system losses which are reflected on the chart as a negative percentage. Industry standard for system loss is 10% or less.

Over the last twelve months, the City has averaged 4.52% in system loss, well within industry standards.

## FISCAL IMPACT & FUNDING SOURCES

There is no fiscal impact associated with this action.

## LEGAL REVIEW

This item does not require legal review.

## ALTERNATIVE ACTION

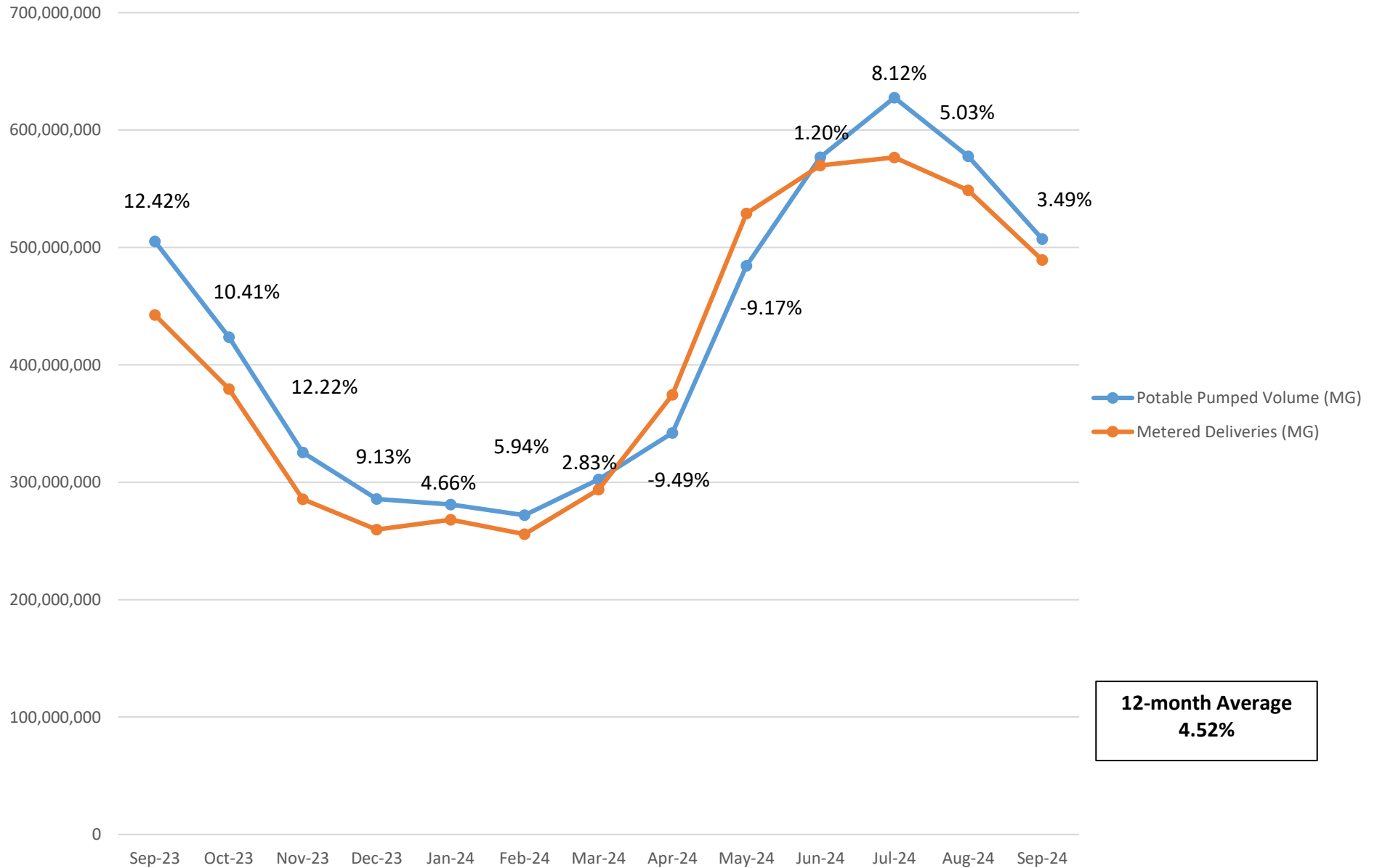
1. Approve with changes
2. Deny
3. Table

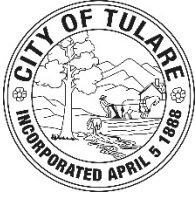
## ATTACHMENTS

1. System Loss Quarterly Graphic

Reviewed/Approved: 

### Potable Pumped vs Metered Delivery





# Staff Report

**Meeting:** Board of Public Utilities Commissioners

**Date:** November 21, 2024

**Department:** Public Works - Water

**Submitted by:** Trisha Whitfield, Public Works Director

**Agenda Title:** Revisions to Chapter 7.09 (Wells) of the Tulare Municipal Code

## RECOMMENDED ACTION

Review the proposed revisions to Chapter 7.09 (Wells) of the Tulare Municipal Code and make recommendations to the City Council in regard to said revisions.

## SUMMARY

In November 2018, the City Council adopted Ordinance 18-11 establishing policies for the construction, modification, repair, abandonment, or destruction of wells in the City of Tulare. The purpose of the ordinance is to manage the groundwater supply so that it will not be contaminated or polluted, to ensure that water obtained from wells will be suitable for beneficial use and will not jeopardize the health, safety, or welfare of the residents, and to monitor the amount of water pumped from any wells within the City.

While the intent of the original ordinance was to eliminate the construction of non-City wells within the City of Tulare, it was not clearly stated in the ordinance. The proposed revisions clarify the intent and also clean up the formatting to match the standard format of the City's Municipal Code. The redlined copy of Chapter 7.09 is attached, as well as clean copy reflecting the revisions. The proposed revisions were made and reviewed by the Public Works Department, Engineering, Assistant City Manager, City Manager, and City Attorney.

If the Board approves the revisions as presented and makes the recommendation, staff will introduce the revisions to the City Council and ask for adoption.

## FISCAL IMPACT & FUNDING SOURCES

There is no fiscal impact associated with this action.

## LEGAL REVIEW

The revisions have been reviewed by the City Attorney.

## ALTERNATIVE ACTION

1. Approve with changes
2. Deny - If denied, there will be limited property to take the City's effluent water. This would impact plant operations and the City's compliance with the waste discharge permit.
3. Table - The postponement of approving the contract could hamper plant operations in January if there is no agreement in place.

## ATTACHMENTS

1. Redlined Chapter 7.09 (Wells)

**Reviewed/Approved:** 

ORDINANCE ~~1824~~ \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF TULARE  
AMENDING TITLE 7, HEALTH AND SANITATION, OF THE MUNICIPAL  
CODE, ~~TO ADD TO AMEND~~ CHAPTER 07.09 (WELLS), ESTABLISHING POLICIES  
FOR THE CONSTRUCTION, MODIFICATION, REPAIR, ABANDONMENT, OR  
DESTRUCTION OF WELLS IN THE CITY

WHEREAS, the State of California has adopted the 2014 Sustainable Groundwater Management Act (SGMA) to assist local agencies in managing sustainable groundwater basins; and

WHEREAS, local agencies are the primary institutional entities to manage groundwater within the State of California; and

WHEREAS, it is imperative that local agencies manage the use of groundwater in a manner that can assure it will be maintained during the planning and implementation horizon without causing undesirable results; and

WHEREAS, areas of California are experiencing overdraft conditions within their groundwater basins and local agencies need to monitor and manage those conditions so as to assure reasonable base water usage, safe yield, and manage overdraft conditions; and

WHEREAS, the Council desires to limit the number of private wells within its managed groundwater basin to assure adequate water to accommodate planned development and growth; and

WHEREAS, the assurance that all water users within the City can connect into the City's water system necessitates the above monitoring and management objectives to comply with the Sustainable Groundwater Management Act.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TULARE, CALIFORNIA, AS FOLLOWS:

**SECTION 1:** Title 7 of the Tulare Municipal Code, Chapter 07.09 (Wells) is hereby amended ~~to add Chapter 07.09 (Wells)~~ as follows:

**CHAPTER~~chapter~~ 7.09: WELLS**

Sections:

07.09.010 Title.

07.09.020 Legislative Intent.

07.09.030 Definitions.

07.09.040 Acts Prohibited, Permit Required.

- 07.09.050 Meter Required.
- 07.09.055 Reporting Water Use.
- 07.09.060 Permits.
- 07.09.070 Rules and Regulations.
- 07.09.080 Cash Deposit or Security Bond.
- 07.09.090 Suspension or Revocation of Permit.
- 07.09.100 Appeal.
- 07.09.110 Public Nuisance.
- 07.09.120 Inspection.
- 07.09.130 Backflow Prevention.

**§ 07.09.010 Title.**

This chapter shall be known and referred to as the Well Ordinance of the City of Tulare.

**§ 07.09.020 Legislative Intent.**

It is the purpose of this Ordinance to regulate the construction, modification or repair, abandonment or destruction of wells in such a manner that the groundwater of this City will not be contaminated, ~~or~~ polluted, ~~or used in an unsustainable manner,~~ ~~and~~ that water obtained from wells will be suitable for beneficial use and will not jeopardize the health, safety or welfare of the people of this City, and to monitor the amount of water pumped from wells.

**§ 07.09.030 Definitions.**

(A) **PERSON**"~~Person.~~" Person shall mean any individual, firm, partnership, general corporation, association, or governmental entity.

(B) **WELL**"~~Well.~~" Well shall mean any artificial excavation for the purpose of extracting water from, or injecting water into, the ground, or for providing cathodic protection, or for making tests or observations of underground conditions, or for any other similar purpose. This definition shall not include: (1) oil, gas, or geothermal wells; or (2) wells used for the purpose of (a) dewatering excavation during construction or (b) stabilizing hillsides or earth embankments.



(C) OWNER. The owner of the property upon which any well subject to this ordinance is located and / or the permittee for such well.

(D) CONTAMINATION<sup>"Contamination."</sup> Contamination shall mean the impairment of the quality of water to a degree which creates, or may create a hazard, to the public health through poisoning or through spread of disease.

(E) POLLUTION<sup>"Pollution."</sup> Pollution shall mean the alteration of the quality of water, in full or part, which affects or may affect such water for beneficial uses. Pollution may include contamination.

(F) PUBLIC WORKS DIRECTOR<sup>"Public Works Director."</sup> Public Works Director shall mean the Public Works Director of the City of Tulare or his/her duly authorized representatives.

(G) PUBLIC NUISANCE<sup>"Public Nuisance."</sup> Public Nuisance, when applied to a well, shall mean any action or omission which threatens to or which in fact contaminates or pollutes the groundwater, exacerbates overdraft conditions, adversely impacts the City of Tulare's public water supply system, or otherwise jeopardizes the health, safety and welfare of the public.

(H) ABANDON or ABANDONMENT<sup>"Abandon or Abandonment."</sup> Abandon or Abandonment, when applied to a well, shall mean to cease maintenance or use of the well for a period of one (1) year.

(I) DESTROY or DESTRUCTION<sup>"Destroy or Destruction."</sup> Destroy or Destruction, when applied to a well, shall mean any action which causes the well to no longer produce or act as a conduit for the interchange of water.

(J) EMERGENCY<sup>"Emergency."</sup> Emergency shall mean a circumstance which (1) causes an imminent threat of or actual contamination or pollution of the City's groundwater, or (2) jeopardizes the health or safety of the people of this City, or (3) is likely to cause a substantial and immediate loss of property.

#### § 07.09.040 Acts Prohibited, Permit Required.

(A) It shall be unlawful for any person to construct, modify or repair, abandon or destroy any well within the City, except by the City, unless such person has a valid permit issued by the Public Works Director for the specific action to be taken.

(B) It shall be unlawful for any person to construct, modify or repair, abandon or destroy any well, unless such construction, modification or repair, abandonment or destruction is in conformance with the terms and conditions contained in the permit issued by the Public Works Director.

(C) It shall be unlawful for any person to construct any private-well, whether for domestic, industrial, or any other use. No permit shall be issued for construction of a well, if the property to

**Commented [MM1]:** Just thinking it would be good to specifically identify impacts to City water supply as a defined nuisance as justification for denial of a well permit.

**Commented [JB2]:** We use "private well" in paragraph C) and D) below. Should we just define "private wells" as "all wells not owned or maintained by the City" - or something equivalent and then use "private well" throughout the document?

**Commented [TW3R2]:** Removed "private" and just left all references to well.

**Commented [JB4]:** Does ordinance apply to the City? Do we need clauses like this (see private well comment above)?

**Commented [TW5R4]:** The municipal code gives us the authority. I don't think the ordinance applies to the City. I have reviewed others and our language is consistent.

be served is connected to the City's water supply system, ~~or~~ the property is within city limits, or within 500 feet of a feasible connection point to the City's water supply system.

(D) It shall be unlawful for any person to modify an existing ~~private~~ well, and no permit shall be issued for modifications other than abandonment and destruction if the property is within city limits or within 500 feet of a feasible connection point to the City's water supply system.

(E) The Public Works Director may issue a permit for the construction, modification or repair of a supply well for domestic, commercial, or industrial purposes, for temporary use only, under the following conditions:

(1) City water mains are not in place adjacent to the property involved;

(2) The City Engineer has determined that it is not economically feasible or desirable to extend the City's water mains to serve the property at the time the request for service is made by the owner or lessee; and

(3) The ~~Owner~~ of the property has executed an agreement for the discontinuance of the use of the well and capping of the same upon notice by the City Engineer. Such notice shall be given immediately following the installation of water mains adjacent to the property on which the well has been drilled.

#### § 07.09.050 Meter Required.

All new wells constructed after the date of this ordinance are required to have a meter installed at the time of construction. In the event that a meter is not installed on an existing constructed ~~private~~ water well the Public Works Director may cause a meter to be installed, at the cost of the City. Existing ~~private~~ water wells are defined as those constructed prior to the effective date of this Ordinance. In the event any water well meter is not properly maintained by the ~~Owner~~ well owner, the Public Works Director may perform the necessary maintenance on the meter and recover the costs from the ~~Owner~~.

#### § 07.09.055 Reporting Water Use.

The ~~Owner~~ of each well within the City of Tulare on which a water meter has been installed shall allow the City access to read said meter annually on or about October 1 of each year and, not later than thirty (30) days thereafter. This information shall be reported to the Public Works Director as the amount of water pumped since the last meter reading. In the event the meter is not read and the amount pumped not reported to the Public Works Director in accordance with this Ordinance, he/she may cause the meter to be read by any lawful means.

#### § 07.09.060 Permits.

(A) The application for the permit required by this ordinance shall be:

**Commented [JB6]:** Do we have the authority to regulate well construction within the County?

**Commented [TW7R6]:** Yes, per Tulare County. I double checked that we have the authority.

**Commented [JB8]:** At a minimum should this be 500 feet per paragraph C) and D) above.

**Commented [TW9R8]:** No, the 500' requirement is what got us where we are at. We needed to open it up more due to private roads.

**Commented [JB10]:** This would be okay as long as engineering has an internal policy to establish economic feasibility (extending the City water main is 1.5 times the cost of the well, or something equivalent). Otherwise this becomes very arbitrary.

**Commented [TW11R10]:** Agree. Engineering would need to create an internal policy.

**Commented [JB12]:** Abandonment?

**Commented [TW13R12]:** Tim is out. I will double check the correct term with him.

(1) Made in writing to the Public Works Director on such forms as he/she may prescribe, setting forth such information as he/she may require to carry out the purposes of this ordinance.

(2) Signed by the applicant.

(B) The application shall be accompanied by any filing fee established for said applications by the City Council through Resolution. No part of the filing fee is refundable.

(C) Permits issued pursuant to this Ordinance by the Public Works Director may contain, and be subject to, such terms and conditions as the Public Works Director determines are necessary to carry out the purposes of this Ordinance. The Public Works Director shall deny any Application for a Permit if, in his/her determination, its issuance would tend to jeopardize the purposes of this Ordinance.

**§ 07.09.070 Rules and Regulations.**

The Public Works Director may adopt rules and regulations to implement and administer this Ordinance. Said rules and regulations shall be approved by the City Council.

**§ 07.09.080 Cash Deposit or Security Bond.**

Prior to the issuance of a Permit, the applicant shall post with the Public Works Director a cash deposit or security bond to guarantee compliance with any terms and conditions of the Permit and the proper performance of the work. Such cash and security bond shall be in the amount determined necessary by the Public Works Director to ensure compliance with this Ordinance, but in no event will such cash deposit or security bond be for an amount in excess of the total estimated cost of the work to be performed. The deposit or bond will be returned to the permittee upon satisfactory completion of the work.

**§ 07.09.090 Suspension or Revocation of Permit.**

(A) The Public Works Director may suspend or revoke a water well Permit issued under this Ordinance whenever the Public Works Director determines that any work performed under such a permit constitutes a Public Nuisance or when the applicant, his agents, employees, or the licensed well drilling contractor performing the work (1) violates any provision of this Ordinance or any terms and conditions of the permit, or (2) misrepresents any material fact(s) in the Permit Application.

(B) Before the Public Works Director suspends or revokes a water well permit, the Public Works Director shall make reasonable effort to notify the landowner where the well is located or the licensed well drilling contractor performing work on the well.

**§ 07.09.100 Appeal.**

Any person whose Permit Application has been denied, granted conditionally, or any person ~~who's~~ whose Permit has been suspended or revoked, may appeal to the City Council:

(A) Said person shall file a Notice of Appeal with the City Clerk on or before the 14th calendar day following the date of decision by the Public Works Director.

(B) The matter shall be scheduled for hearing before the City Council, no later than 30 days following receipt of the Appeal, absent mutual agreement to the contrary. The Appellant shall be served with notice of the time and place of the hearing, as well as any relevant materials, at least five calendar days prior to the hearing. The hearing may be continued, upon mutual consent. At the time of the hearing the appealing party, the Public Works Director, and any other interested person may present such relevant evidence as he or she may have, relating to the determination from which the appeal is taken.

(C) Based upon the submission of such evidence and any other relevant material including city files, the City Council shall issue a decision upholding, modifying, or reversing the determination from which the appeal is taken. Notice of Decision shall be given within 14 days following submission of the matter to the Council and shall state the reasons for the Decision. Any notices under this section may be sent by regular mail, postage prepaid, and shall be deemed received on the fifth calendar day following the date of mailing.

**§ 07.09.110 Public Nuisance.**

Upon finding by the Public Works Director that a well may cause contamination or pollution to the groundwater or is a threat to the public health, safety or welfare, such well shall constitute a Public Nuisance. The Public Works Director may take any action necessary to abate such Public Nuisance. The owner of the property upon which the well is located and / or the permittee for such well shall be liable for any and all costs incurred by, or at the request of, the Public Works Director in the abatement of said Public Nuisance.

**§ 07.09.120 Inspection.**

The Public Works Director or his/her designee(s) may, at any and all reasonable times (absent an emergency, reasonable times exclude any time of day on weekends or holidays and prior to 8am or after 6pm on weekdays), enter any and all places, property, enclosures and structures for the purpose of examining or investigating the construction, modification or repair, abandonment, or destruction of wells.

**§ 07.09.130 Backflow Prevention of Existing Auxiliary Water Supply Wells**

-(California Administrative Code Title 17)

The water purveyor has the primary responsibility to prevent water from unapproved sources entering the public water supply system. Each service connection from a public water system

supplying water to premises having an auxiliary water supply (well) shall be protected against backflow of water from the premises into the public water system by the installation of a City-approved reduced pressure principle backflow prevention device installed at the public water supply meter connection. It shall be the responsibility of the water user to provide protective devices as required under this Code. It shall be the duty of the water user on any premise for which backflow protective devices are installed to have a competent licensed inspection and test performed at least once per year at the expense of the water user.

**§ 07.09.140 Violation-Penalty.**

(A) It shall be unlawful for any person to violate any provision of this chapter. Unless otherwise specified in this chapter, any violation of the provisions herein shall constitute a misdemeanor. Notwithstanding the classification of a violation of this chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of the chapter, the trial court, upon recommendation of the City Attorney, may reduce the charged offense from a misdemeanor to an infraction.

(B) Any person convicted on a misdemeanor under this chapter shall be punished by a fine not to exceed \$2,500 or by imprisonment not exceeding six months, or by both the fine and imprisonment.

(C) Any person convicted of an infraction under this chapter shall be punished by:

(1) A fine not exceeding \$50 for a first violation;

(2) A fine not exceeding \$100 for a second violation of this chapter within one year; and

(3) A fine not exceeding \$250 for each and every additional violation of this chapter within one year.

(D) Each day that a violation continues shall be regarded as a new and separate offense.

(E) In addition to the penalty set forth hereinabove for the conviction of a misdemeanor and/or infraction for violation of any of the provisions of this chapter, any person so convicted shall further be required to pay restitution to the city for all costs, including city staff time and reasonable attorney's fees, related to the enforcement of this chapter.

**§ 07.09.150 Notification of violation.**

Whenever the Public Works Director finds that any user has violated or is violating this chapter, the Public Works Director may serve upon the owner of the property upon which the well is located and / or the permittee for such well a written notice of violation. Within ten days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the owner of the property upon which the well is located and / or the permittee for such well to

the Public Works Director. Submission of this plan in no way relieves the owner of the property upon which the well is located and / or the permittee for such well of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

**SECTION 2:** If any provision of the Tulare Municipal Code or Title 7 of the Ordinance Code of the City of Tulare, whether approved or adopted prior to or subsequent to Chapter 7.09 is in conflict therewith, the provisions of Chapter 7.09 shall govern.

**SECTION 3:** This Ordinance shall be in full force and effect thirty (30) days from and after its final passage, adoption, and approval.

**PASSED, ADOPTED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_,  
20~~18~~24.

\_\_\_\_\_  
President of the Council and  
Ex-Officio Mayor of the City of Tulare

ATTEST:

\_\_\_\_\_  
Chief Deputy City Clerk and Clerk of the  
Council of the City of Tulare



# Staff Report

**Meeting:** Board of Public Utilities Commissioners

**Date:** November 21, 2024

**Department:** Public Works - Sewer  
**Submitted by:** Tim Doyle, Assistant Public Works Director  
**Agenda Title:** Sewer Lift Station PLC Upgrades

## RECOMMENDED ACTION

Award and authorize the City Manager to sign a contract with Telstar Instruments, of Hanford, CA for CIP Project SW0008, Sewer Lift Stations PLC / SCADA Upgrades in the amount of \$247,620.00; and authorize the City Manager or designee to approve contract change orders in an amount not to exceed 10% (\$24,762.00) of the task order amount.

## SUMMARY

On August 15, 2024, the Board approved a list of pre-qualified firms for on-call SCADA / Electrical Services per the City’s RFQ 24-805 issued on July 5, 2024. Telstar Instruments, of Hanford, CA is included on the list of pre-qualified on-call SCADA / Electrical Maintenance and Repair Services for the City’s Water Department, Sewer Collection Division and Wastewater Treatment Plant. They demonstrated in their proposal they have the expertise and resources available to meet the City’s needs and timeframe to complete this project.

Staff asked Telstar Instruments to provide a scope of work for PLC/SCADA upgrades at 15 sewer lift stations. The sewer lift station upgrades involve a comprehensive upgrade of the Programmable Logic Controllers (PLC) and Supervisory Control and Data Acquisition systems (SCADA) for twelve (12) sewer lift stations to modernize and standardize the control programs across the sewer lift station locations. Three (3) additional locations in the scope of services currently do not have existing PLC’s or SCADA equipment installed, so they have a separate scope of work which involves more equipment and work than the 12 other lift stations. For all proposed stations, the project includes planning & preparation, site assessments, hardware procurement, software development, installation, and testing. Telstar Instruments has proposed to perform the necessary work for \$247,620.00 which is in line with industry standards.

Below is the breakdown of costs, by location, per the attached quote:

# of Sites	Location	Price per Site	Total Price
11 locations	Services at 11 General Sites	\$8,584.00	\$94,424.00
1 location	Service at Bardsley Site	\$12,640.00	\$12,640.00
*3 locations	Services at Inyo & West, Windmills, Alpine & Spruce	\$46,852.00	\$140,556.00
		<b>Total:</b>	<b>\$247,620.00</b>

\*These 3 locations are considerably higher because they currently do not have existing PLC’s or SCADA equipment installed.

## FISCAL IMPACT & FUNDING SOURCES

The costs associated with the contract to Telstar Instruments would be charged to Project SW0008 - Sewer Lift Stations Upgrades. This capital account is funded annually for upgrades to the sewer lift stations and has a fund balance of approximately \$1.3 million, which will cover the cost of the work as quoted.

**LEGAL REVIEW**

This item does not require legal review.

**ALTERNATIVE ACTION**

1. Approve with changes - Staff will implement BPU's directions regarding modifications to the original project scope.
2. Deny - Should BPU deny the contract request, City staff will have to continue to operate as is with obsolete equipment.
3. Table - If BPU postpones the decision, it could lead to a higher proposal in the future.

**ATTACHMENTS**

1. Cost Proposal

Reviewed/Approved: 





Contractor License #422364  
Contractor DIR #100000899

**CONTROL SYSTEM INTEGRATION • INSTRUMENTATION SERVICES  
SCADA/AUTOMATION • PLC/HMI • ELECTRICAL • CALIBRATION • MAINTENANCE**

November 6, 2024

City of Tulare  
3981 S K St.  
Tulare, CA 93274  
Sent via Email: [kwales@tulare.ca.gov](mailto:kwales@tulare.ca.gov)

Attn: Ken Wales  
Subject: Lift Station PLC Upgrades  
Reference: 20-42596

Drawings: N/A  
Specifications: N/A

Dear Ken,

Telstar Instruments ("Telstar") is pleased to provide a quote for the referenced project to the above identified purchaser ("Customer"). Lift Station PLC Upgrades.

**By accepting this proposal from Telstar, you agree to treat this as confidential information.**

**SCOPE OF SUPPLY / SERVICES – General:**

1. Telstar will provide and install one (1) new MicroLogix 1400 PLC with one (1) analog module.
2. Telstar will update existing programming to match new hardware change.  
**Note: program functionality will remain as-is.**
3. Install customer supplied GE Orbit Cellular Radio. Radio programming provided by the City.
4. Telstar will perform start-up and testing of new installation.

**Note: This scope is for a single general lift station.**

**Lump Sum Price for this Scope.....\$8,584.00**

Shipping and Handling for Telstar Supplied Materials IS INCLUDED

Sales Tax IS INCLUDED



Contractor License #422364  
Contractor DIR #100000899

**SCOPE OF SUPPLY / SERVICES – Bardsley Lift Station:**

- 5. Telstar will provide and install one (1) new MicroLogix 1400 PLC with one (1) analog module and six (6) discrete input modules.
- 6. Telstar will update existing programming to match new hardware change.

***Note: program functionality will remain as-is.***

- 7. Install customer supplied GE Orbit Cellular Radio. Radio programming provided by the City.
- 8. Telstar will perform start-up and testing of new installation.

**Lump Sum Price for this Scope**.....\$12,640.00  
 Shipping and Handling for Telstar Supplied Materials IS INCLUDED  
 Sales Tax IS INCLUDED

**SCOPE OF SUPPLY / SERVICES – Inyo & West/Windmill/Alpine & Spruce Lift Stations:**

- 9. Telstar will provide and install one (1) new telemetry control panel.
  - a. One (1) new MicroLogix 1400 PLC with one (1) analog module and one (1) discrete input modules.
  - b. 7” C-More HMI.
  - c. Ethernet switch.
  - d. Various panel components (terminals, breakers, power supplies, switches, light, fan, etc.)
- 10. Telstar will program the new PLC and HMI to match the functionality of the existing Lift Stations.
  - a. Provide Wonderware programming:
    - i. Configure all sites to communicate directly from SCADA to remote PLCs.
    - ii. Remove the Master PLC once all Lift Stations have been upgraded.
- 11. Install customer supplied GE Orbit Cellular Radio. Radio programming provided by the City.
- 12. Telstar will perform start-up and testing of new installation.

***a. Note: This scope is for each of the lift stations noted, Inyo & West/Windmill/Alpine & Spruce.***

**Lump Sum Price for this Scope (per each)** .....\$46,852.00  
 Shipping and Handling for Telstar Supplied Materials IS INCLUDED  
 Sales Tax IS INCLUDED

This quotation is based on Customer’s representation that this IS a prevailing wage project.

## CLARIFICATIONS, EXCEPTIONS, AND EXCLUSIONS

- a. Material price is valid for seven (7) days from date referenced on this quote (Refer to COVID clause RE: MATERIAL PRICING AND DELIVERY under Terms and Conditions)
- b. This quotation is based on the inclusion of Telstar's standard Terms and Conditions as part of any purchase order, contract or other agreement.
- c. Telstar's quotation includes only those items listed above. Requests for additions/deletions from our scope will require a change in the quoted price.
- d. Telstar assumes no responsibility for performance, applicability, compatibility, start-up, testing, or acceptance of any equipment not furnished by Telstar under this proposal.
- e. Please reference the above stated quote number in all correspondence and purchase orders.
- f. A fee of 2% will be applied to all invoices paid by credit card.

## TERMS AND CONDITIONS

**Base Terms:** The attached Quotation is valid for 30 days from the date of Telstar Instruments' ("Telstar") quotation. Acceptance of Telstar's Quotation constitutes a binding Agreement incorporating these Terms and Conditions ("Agreement"). Payment is due and payable 30 days from date of invoice. If payment is not received by the 30th day, a .05% daily service charge (18-3/4% per annum) will be charged on all accounts past due. In the event of a dispute concerning payment, attorney's fees, court costs and costs of collection will be paid to the prevailing party. The cost for permits and bonding are excluded unless expressly referenced in Telstar's quotation. Our standard insurance applies unless agreed to in writing by Telstar. Telstar's standard one year parts only warranty applies to this quotation. All other warranties, express or implied, or referenced elsewhere in contract documents are excluded, including but not limited to implied warranties of merchantability or fitness for purpose. Unless expressly stated in Telstar's estimate, this quote is based on standard straight time hours and does not include any prevailing wage rates. The price quoted herein is for the labor and materials specifically listed within the body of this quote. Overtime and premium labor hours are not included in the quotation, and will result in an additional charge. Service calls are charged at a 4-hour minimum per person, excluding travel time, which is charged separately. Unless expressly stated in the Quotation, training, operation and maintenance manuals, and preparation of as built drawings are excluded from Telstar's scope of work. The term "Equipment" and "Services" as used in these Terms and Conditions refers to the materials and labor provided by Telstar under this Agreement.

**Limitation of Liability:** (a) In no event shall Telstar, its suppliers or subcontractors be liable for special, indirect, incidental or consequential damages, whether in contract, warranty, tort, negligence, strict liability or otherwise, including, but not limited to, loss of profits or revenue, loss of use of Equipment or any associated equipment, cost of capital, cost of substitute equipment, facilities or Services, downtime costs, delays, or claims of customers of Customer, their officers, directors, members employees or any third parties for any damages. Telstar's liability for any claim, whether in contract, warranty, tort, negligence, strict liability, or otherwise for any loss or damage arising out of, connected with, or resulting from this Agreement or the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, repair, replacement, installation, technical direction of installation, inspection, operation or use of any Equipment covered by or furnished under this Agreement, or from any services rendered in connection therewith, shall in no case exceed twenty-five percent (25%) of the purchase price allocable to the Equipment or Services that are the subject of the claim. (b) All causes of action against Telstar arising out of or relating to this Agreement, or the performance or breach hereof shall be deemed barred unless brought within one year from the date of discovery or other accrual. (c) In no event, regardless of cause, shall Telstar be liable for liquidated damages, offsets or penalties of any kind or to indemnify, defend or hold harmless Customer, its officers, directors, members, employees or any third party, arising from or related to the Equipment and/or Services provided by Telstar.

**Force Majeure:** Telstar shall neither be liable for loss, damage, detention or delay nor be deemed to be in default for failure to perform when prevented from doing so by causes beyond its reasonable control including but not limited to acts of war (declared or undeclared), Acts of God, fire, strike, labor difficulties, pandemic, acts or omissions





**Contractor License #422364**  
**Contractor DIR #100000899**

of any governmental authority or of Customer, compliance with government regulations, insurrection or riot, embargo, delays or shortages in transportation or inability to obtain necessary labor, materials, or manufacturing facilities from usual sources or from defects or delays in the performance of its suppliers or subcontractors due to any of the foregoing. In the event of delay due to any such cause, the date of delivery will be extended by period equal to the delay plus a reasonable time to resume production, and the price will be adjusted to compensate Telstar for such delay.

**Cancellation:** In the event of cancellation by Customer, Customer agrees to fully reimburse and compensate Telstar for all costs associated with this Agreement, including but not limited to engineering, labor, materials, quote and estimating time, and product return fees, plus a ten percent (10%) markup to compensate for disruption in scheduling, planned production, indirect costs and profit. Payment for cancellation shall be due within ten (10) days from the date of submission of charges by Telstar.

**Entire Agreement:** This Agreement constitutes the entire agreement between Telstar and Customer. There are no agreements, understandings, restrictions, warranties, or representations between Telstar and Customer other than those set forth herein or herein provided. This Agreement may only be amended, changed or revised by a written amendment signed by an authorized representative of Telstar. No oral or implied agreements shall be of any force or affect.

**Precedence:** In the event Telstar is issued an authorization for work, Purchase Order, Contract or similar Agreement with conflicting Terms and Conditions than those set forth herein, these Terms and Conditions will take precedence and will supersede any and all other conflicting Terms and Conditions.

**Submittals:** In the event Telstar receives a Notice to Proceed or a written statement to proceed with submittals, Telstar will be entitled to compensation based on percent of completion of submittal cost to Customer. Telstar will prepare only one set of submittals, and any resubmittals shall be subject to an additional charge for engineering time and other costs in preparing re-submittals.

**Prevailing Wages:** Customer must promptly inform Telstar when a project will be registered on the Department of Industrial Relations. Customer must inform Telstar if Certified Payroll Reports are required to be submitted to Customer. If Customer requests Certified Payroll Reports beyond four weeks in arrears, Customer may be charged an administrative processing fee of \$50.00 per week generated for said reports.

**Authorized Signers:** Only the following officers of Telstar have the legal authority to enter into binding agreements on behalf of Telstar: John D. Gardiner (President), Kyle A. Johnsen (Vice President), Robert S. Marston (Secretary), Benjamin R. Herston (Treasurer). If a document is signed by an unauthorized person, the document will be void and unenforceable.

**Industry Material Pricing and Delivery:** Telstar is unable to hold prices on materials for more than 7 days from the dates of the Quotation. Prices for plastic, copper, steel, and other commodities fluctuate daily. Our vendors and manufacturers can experience delays due to labor shortages, shortage of containers, port congestion, and raw material shortages that have extended lead times significantly. Telstar reserves the right to change the delivery date and pricing of materials set forth in this Quotation. Telstar considers any of the above related changes imposed by our vendors and manufacturers as outside its reasonable control and subject to Force Majeure provisions.

**Insurance:** Telstar's standard insurance limits will apply.

**Open Shop:** Telstar is an Open Shop contractor and will not be signatory to any unions.

**Governing Law:** This Agreement shall be construed and interpreted in accordance with the laws of the State of California.

**Waiver:** The failure of Telstar to insist upon the performance of any term or condition of this Agreement shall not be construed as a waiver of the future performance of any such term or condition or the future exercise of such right.

**Severability:** If any term of this Agreement is determined to be invalid or unenforceable under any applicable statute, regulation, ordinance, or other law, such term shall be deemed reformed or deleted, but only to the extent necessary to comply with such law, and the remaining portions of this Purchase Order shall remain in full force and effect.

**Dispute Resolution:** In the event of any dispute arising from or relating to this Agreement, the parties agree to engage in informal efforts toward resolution by meeting in person. If such efforts are unsuccessful, the parties agree to submit the dispute to mediation with a neutral mediator for resolution, with the parties sharing the costs of such mediation equally. If the parties are unsuccessful in resolving their dispute, then the dispute shall be subject to



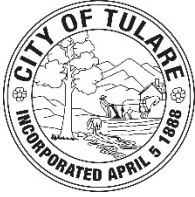
**Contractor License #422364**  
**Contractor DIR #100000899**

litigation. If the dispute involves a public entity Owner, then the parties shall comply with the requirements of Public Contract Code section 9204.

We look forward to working with you on this project. If you have any questions, please contact me at the phone number below.

Sincerely,

Corey Montgomery  
PLC/SCADA Systems Programmer  
Telstar Instruments  
559.584.7116



# Staff Report

**Meeting:** Board of Public Utilities Commissioners

**Date:** November 21, 2024

**Department:** Public Works - Water

**Submitted by:** Andrew Bettencourt, Senior Management Analyst

**Agenda Title:** Award CMMS Contract to Brightly Software Inc.

## RECOMMENDED ACTION

Award and authorize the City Manager to sign a three-year contract with Brightly Software Inc. in the amount of \$107,164.61 for a Computerized Maintenance Management System (CMMS) for the City's Water Division. Authorize the City Manager or designee to approve contract change orders in an amount not to exceed 10% (\$10,716.46).

## SUMMARY

At the November 7, 2024 Board of Public Utilities meeting, the Board approved a two-year contract with Brightly Software Inc in the amount of \$78,477.87 to provide a Computerized Maintenance Management System (CMMS) for the Water Division.

When the City advertised the Request for Proposals (24-802) for an appropriate CMMS software and support services, there was some language about a possible two-year contract. The response from Brightly Software Inc., though, was for a 3-year deal. This was wrongly omitted by staff in the staff report for the November 7 meeting.

It was detailed in the November 7 staff report that the cost for Year 3 would be 3% higher than the subscription service for Year 2. The contract calls for an additional \$28,686.74 to fulfill the third year of the contract. This fee is detailed in Brightly's Cost Proposal. If approved as a three-year contract, the contract with Brightly will end on June 30, 2027.

## FISCAL IMPACT & FUNDING SOURCES

Funding for the implementation and first year of the CMMS was programmed in the FY 2023/24 – 2027/28 Capital Improvement Program in the amount of \$115,000. The savings from this project will return to the Water CIP fund balance.

After implementation, the annual fees will be a part of the Water Division operating budget starting with the City's 2025-26 fiscal year. There will be a projected 6% annual increase for Years 4 and 5.

## LEGAL REVIEW

The contract was reviewed by the City Attorney's Office.

## ALTERNATIVE ACTION

1. Approve with changes
2. Deny
3. Table

## ATTACHMENTS

1. Brightly Software Inc. Cost Proposal

Reviewed/Approved: 



## **PREPARED FOR**

City Of Tulare ("Customer")  
411 East Kern  
Tulare, CA 93274

## **PREPARED BY**

Brightly Software Inc  
11000 Regency Parkway, Suite 300  
Cary, NC 27518

## **PUBLISHED ON**

October 31, 2024



Q-410147

What technology is included in the Subscription

The following components comprise the Confirm Suite Offering:

**Confirm Core Instance**

Robust, asset management platform designed to scale with you.

**Confirm Core User**

Back-office access to the breadth and depth of functionality around the day-to-day processing and administrative activities regarding the maintenance and management of your infrastructure assets.

**Confirm Core Connect**

Our mobile solution, ConfirmConnect™, provides a spatial view of Tasks assigned to a particular crew or field worker with up-to-date awareness of what is going on around them.

**Confirm Workzone**

Workzone is our spatially enabled, easy-to-use drag and drop scheduling tool.

If needed, additional licenses would be added at the then current rate.

**Subscription Term: 32 months (11/01/2024 - 06/30/2027)**

Cloud Services				
Item	Start Date	End Date	Pricing Based On	Investment
Public Infrastructure - Core	11/1/2024	6/30/2025		18,026.67 USD
Confirm Core	11/1/2024	6/30/2025	1.00 Base	
Confirm Core User	11/1/2024	6/30/2025	5.00 Users	
Confirm Core Connect	11/1/2024	6/30/2025	10.00 Users	
Confirm Core Workzone	11/1/2024	6/30/2025	3.00 Users	
4.0 Month(s) included at no additional cost on the first term 11/01/2024 - 02/28/2025				-8,938.84 USD





		<b>Subtotal:</b> 9,087.83 USD
<b>Professional Services</b>		
Item	Pricing Based On	Investment
Professional Services		32,600.00 USD
On-site incidental expenses		*See Note Below
		<b>Subtotal:</b> 32,600.00 USD
<b>Total Initial Investment</b>		<b>41,687.83 USD</b>

\* Incidental travel related expenses will be invoiced to Client at cost but are not anticipated to exceed \$3,000 per week, per resource for on-site services.



## Cloud Services Subscription

Item	Investment Year 2 Start Date: 07/01/2025	Investment Year 3 Start Date: 07/01/2026
Public Infrastructure - Core	27,851.20 USD	28,686.74 USD
Confirm Core		
Confirm Core User		
Confirm Core Connect		
Confirm Core Workzone		
Total:	27,851.20 USD	28,686.74 USD



## Cloud Services Subscription

Item	Optional Renewal Investment Year 4 Start Date: 07/01/2027	Optional Renewal Investment Year 5 Start Date: 07/01/2028
Public Infrastructure - Core	30,407.94 USD	32,232.41 USD
Confirm Core		
Confirm Core User		
Confirm Core Connect		
Confirm Core Workzone		



## **Order terms**

BY SIGNING THIS ORDER FORM, WHETHER BY ELECTRONIC OR WRITTEN SIGNATURE, YOU ARE PLACING A BINDING ORDER FOR THE OFFERINGS SHOWN. IF THE INDIVIDUAL ENTERING INTO THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, THE INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, IN WHICH CASE THE TERM "CUSTOMER" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY OR DOES NOT AGREE WITH THE TERMS AND CONDITIONS SET FORTH HEREIN, THE INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE OFFERINGS.

- The "Effective Date" of the Agreement between Customer and Brightly Software, a Siemens Company ("Siemens") is the date Customer accepts this Order
- Proposal expires in sixty (60) days.
- The Siemens entity entering into this Agreement is Brightly Software, Inc., a Delaware corporation, and the notice address shall be Corporate Trust Center, 1209 Orange Street, Wilmington, DE 19801 USA, Attn: Brightly Software.
- By accepting this Order, and notwithstanding anything to the contrary in any other purchasing agreement, Customer agrees to pay all relevant Subscription Fees for the full Subscription Term defined above.
- Payment terms: Net 30
- This Order and its Offerings will be subject to the terms and conditions of the Terms of Service (the Base Terms together with any applicable Supplemental Terms) found at <http://brightlysoftware.com/terms> (<http://brightlysoftware.com/terms>) ("Agreement"), unless Customer has a separate written agreement executed by Brightly Software, Inc. for the Offerings, in which case the separate written agreement will govern its defined Term. Acceptance is expressly limited to the terms of the Agreement. No other terms and conditions will apply. The terms of any purchase order or other document from Customer are excluded and such terms will not apply to the Order and will not supplement or modify the Agreement irrespective of any language to the contrary in such document.
- Siemens shall invoice Customer and Customer agrees to pay Siemens the amount specified on this Order. Quantities purchased may not be decreased during the relevant Subscription Term. Customer is responsible for providing complete and accurate billing and contact information to Siemens and notifying Siemens promptly of any changes to such information.
- If Customer is paying by credit card or Automated Clearing House ("ACH"), Customer shall establish and maintain valid and updated credit card information or a valid ACH auto debit account (in each case, the "Automatic Payment Method"). Upon establishment of such Automatic Payment Method, Siemens is hereby authorized to charge any applicable Subscription Fee using such Automatic Payment Method.
- Customer is responsible for paying all taxes associated with its purchases hereunder. Siemens shall invoice Customer and Customer shall pay that amount unless Customer provides Siemens with a valid tax exemption certificate, direct pay permit, or other government-approved documentation. Notwithstanding the foregoing, Customer is responsible for, and, to the extent permitted by law, will indemnify Siemens for: 1) any encumbrance, fine, penalty or other expense which Siemens may incur as a result of Customer's failure to pay any taxes required hereunder, and 2) any taxes, including



withholding taxes, resulting from making an Offering available to Users in geographic locations outside the country in which Customer is located as per the Order. For clarity, Siemens is solely responsible for taxes assessable against Siemens based on its income, property and employees.

- Siemens agrees the Annual Fees for the first Renewal Term shall remain fixed at the annual subscription rates provided in the Investment section of this document. The Annual Fees for the second and third Renewal Terms may increase by an amount not to exceed six percent (6%) over the immediately preceding Renewal Term.
- In the event Customer purchases the Cloud Services (including any renewals thereof) through an authorized reseller of Siemens, the terms and conditions of this Agreement shall apply and supersede any other agreement except for any terms and conditions related to fees, payment or taxes. Such terms and conditions shall be negotiated solely by and between Customer and such authorized reseller. In the event Customer ceases to pay the reseller, or terminates its agreement with the reseller, Siemens shall have the right to terminate Customer's access to the Cloud Services at any time upon thirty (30) days' notice to Customer unless Customer and Siemens have agreed otherwise in writing.
- Customer shall use reasonable efforts to obtain appropriation in the full amount required under this Order annually. If the Customer fails to appropriate funds sufficient to maintain the Offerings described in this Order, then the Customer may terminate the Offerings at no additional cost or penalty by giving prior written notice documenting such non-appropriation. Customer shall use reasonable efforts to provide at least thirty (30) days prior written notice of non-appropriation. Customer agrees non-appropriation is not a substitute for termination for convenience, and further agrees Offerings terminated for non-appropriation may not be replaced with functionally similar products or services prior to the expiration of the Services Term set forth in this Order. Customer will not be entitled to a refund or offset of previously paid, but unused Fees.

### **Cloud Services**

- Billing frequency: Annual
- Cloud Services Offerings will be subject to the terms and conditions of the General Software and Cloud Supplemental Terms found at <http://brightlysoftware.com/terms> (<http://brightlysoftware.com/terms>).
- During the Term, Siemens shall, as part of Customer's Subscription Fees, provide telephone and email support ("Support Services") during the hours of 8:00 AM and 6:00 PM EST, Monday through Friday ("Business Hours"), excluding holidays.
- Siemens shall use commercially reasonable efforts to make its Software or Cloud Service available 99.9% of the time for each full calendar month during the Subscription Term, determined on twenty-four (24) hours a day, seven (7) days a week basis (the "Service Standard"). The Service Standard availability for access and use by Customer(s) excludes unavailability when due to: (a) any access to or use of the Cloud Service by Customer or any Account User that does not strictly comply with the terms of the Agreement or the Documentation; (b) any failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under the Agreement; (c) Customer's or its Account User's Internet connectivity; (d) any Force Majeure Event; (e) any failure, interruption, outage, or other problem with internet service or non-Cloud Service; (f) Scheduled Downtime; or (g) any disabling, suspension, or termination of the Cloud Service by Siemens pursuant to the terms of the Agreement. "Scheduled Downtime" means, with respect to any applicable Cloud Service, the total amount of time (measured in minutes) during an applicable calendar month when such Cloud Service is unavailable for



the majority of Customer's Account Users due to planned Cloud Service maintenance. To the extent reasonably practicable, Siemens shall use reasonable efforts to provide eight (8) hours prior notice of Cloud Service maintenance events and schedule such Cloud Service maintenance events outside the applicable business hours.

- Siemens reserves the right to block IP addresses originating a Denial of Service (DoS) attack. Siemens shall notify Customer should this condition exist and inform Customer of its action. Once blocked, an IP address shall not be able to access the Cloud Service and the block may be removed once Customer is satisfied corrective action has taken place to resolve the issue. Siemens also reserves the right to suspend or terminate service if Customer: 1) performs load tests, network scans, penetration tests, ethical hacks or any other security auditing procedure on the Cloud Service, 2) interferes with or disrupts the integrity or performance of the Cloud Service or data contained therein, or 3) otherwise violates the use restrictions under this Agreement.

#### **Professional Services:**

- Professional Services Offerings will be subject to the terms and conditions of the Services Supplemental Terms found at <http://brightlysoftware.com/terms> (<http://brightlysoftware.com/terms>).
- Unless otherwise specified in an applicable Order: (i) Siemens will perform the Professional Services during workdays, Monday through Friday, up to 8 hours a day; (ii) any estimate of hours or costs are reasonable, good faith estimates only; and (iii) each task is performed as firm fixed price work or time and materials as described in this Order. Siemens is only obliged to supply Professional Services and/or Deliverables as expressly stated in this Order. Siemens shall not be obliged to supply any Professional Services and/or Deliverables without a valid Order.
- **Scheduling.** Siemens requires at least 6 weeks advanced notice from the acceptance of an Order to schedule Professional Services delivery dates when travel is required. Onsite Professional Services shall be delivered consecutively in a single onsite visit unless the applicable Order includes the additional fees associated with multiple visits.
- **Unused Professional Services.** Unless otherwise specified in the Order, Siemens reserves the right to expire any unused Professional Services 6 months from the Effective Date set forth on the Order, and Customer will not be entitled to receive a refund for any fees prepaid for such expired Professional Services.
- **Customer Cooperation.** Customer will cooperate reasonably and in good faith with Siemens in its performance of Professional Services by: (i) providing access to any necessary Customer Data, (ii) allocating sufficient resources and timely performing any tasks reasonably necessary to enable Siemens to perform its obligations under the Order, and (iii) actively participate in scheduled project meetings. Any delays in the performance of Professional Services or delivery of Deliverables caused by Customer may result in additional applicable charges for resource time.
- **Additional Expenses.** Customer will reimburse Siemens for travel and related business expenses incurred in connection with Professional Services.

#### **Additional information**

- Prices shown above do not include any taxes that may apply. Any such taxes are the responsibility of Customer. This is not an invoice. For customers based in the United States, any applicable taxes will be determined based on the laws and regulations of the taxing authority(ies) governing the "Ship To" location provided by Customer. Tax exemption certifications can be sent to [accountsreceivable@brightlysoftware.com](mailto:accountsreceivable@brightlysoftware.com) (<mailto:accountsreceivable@brightlysoftware.com>).



- Billing frequency other than annual is subject to additional processing fees.
- Provide Siemens with the purchase order number, if applicable. Acceptance of this Order without a purchase order number indicates that a purchase order is not necessary. Please reference Q-410147 on any applicable purchase order and email to [Purchaseorders@Brightlysoftware.com](mailto:Purchaseorders@Brightlysoftware.com) (<mailto:Purchaseorders@Brightlysoftware.com>)
- Brightly Software, Inc. can provide evidence of insurance upon request.



# Signature

Presented to:

Q-410147

May 28, 2024, 3:42:01 PM

Accepted by:

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**Printed Name**

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**Signed Name**

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**Title**

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**Date**