

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

May 18, 2017

A closed session meeting of the Board of Public Utilities Commissioners, City of Tulare, was held on Thursday, May 18, 2017, at 6:00 p.m., in the Tulare Public Library & Council Chambers.

BOARD MEMBERS PRESENT: James Pennington, Howard Stroman, Gregory Blevins, Thomas Griesbach, Erica Cubas

STAFF PRESENT: Joe Carlini, Heather Phillips, Sara Tobias, Steve Bonville, Melissa Hermann

I. CALL TO ORDER CLOSED SESSION:

President Pennington called the closed session to order at 6:02 p.m.

- II. CITIZEN COMMENTS** – Comments from the public are limited to items listed on the agenda (GC 54954.3a). Speakers will be allowed three minutes. Please begin your comments by stating and spelling your name and providing your city of residence.

There were no citizen comments.

III. ADJOURN TO CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION(S):

President Pennington adjourned to closed session at 6:02 p.m. for items as noted on agenda.

- (a) 54956.9(e)(2) Conference with Legal Counsel – Anticipated Litigation (1)
Facts and circumstances related to recent request(s) by Colony Energy relating to its lease of property adjacent to the City's Waste Water Treatment Plant (APN 174-040-006-000) as well as any additional requests it may make in its appearance before the BPU; and Colony Energy's position/role with respect to an RFP regarding Utilization of Biomethane and/or providing low cost electricity dated March 26, 2015; and the PPA negotiations that followed, and any requests Colony Energy may make in its appearance before the BPU, relating thereto.

A regular session meeting of the Board of Public Utilities Commissioners, City of Tulare, was held on Thursday, May 18, 2017, at 7:00 p.m., in the Tulare Public Library & Council Chambers.

BOARD MEMBERS PRESENT: James Pennington, Howard Stroman, Gregory Blevins, Thomas Griesbach, Erica Cubas

STAFF PRESENT: Joe Carlini, Heather Phillips, Sara Tobias, Trisha Whitfield, Darlene Thompson, Michael Miller, Benjamin Siegel, Tim Doyle, Jason Bowling, Steve Bonville, Nick Bartsch, Melissa Hermann

IV. RECONVENE CLOSED SESSION :

President Pennington reconvened from closed session at 7:31 p.m.

V. CLOSED SESSION REPORT (if any) :

President Pennington advised there were no reportable items.

VI. ADJOURN CLOSED SESSION :

President Pennington adjourned the closed session at 7:32 p.m.

VII. CALL TO ORDER REGULAR MEETING:

President Pennington called the regular meeting to order at 7:32 p.m.

VIII. PLEDGE OF ALLEGIANCE:

Board Member Griesbach led the Pledge of Allegiance and an invocation was given by Vice President Stroman.

IX. CITIZEN'S REQUEST OR COMMENTS:

President Pennington advised that comments from the public are for items within the jurisdiction of the Board. Speakers will be allowed three minutes.

There were no citizen comments presented.

X. COMMUNICATIONS:

There were no items for this section on the agenda.

XI. CONSENT CALENDAR:

It was moved by President Pennington, seconded by Vice President Stroman, and unanimously carried that the items on the Consent Calendar be approved as presented with the exception of items 2, 3, and 7.

(1) Approve minutes of May 4, 2017 regular/special meeting(s).

- (2) **Award Bid 17-615 to Visalia Ford in the amount of \$23,228.69 for the purchase of one (1) Regular Cab One Half (1/2) Ton Long Bed Truck.** Vice President Stroman pulled this item to inquire about the purpose of this vehicle purchase. General Services Director Steve Bonville responded thereto. With no further discussion, it was moved by Vice President Stroman, seconded by Board Member Blevins and unanimously carried to accept the item as presented.
- (3) **Receive the proposed Utility funds fiscal year 2017/18 operating and position control budget and the fiscal years 2017-2022 projects budget for Board review and study.** Board Member Cubas pulled this item to inquire about how often policies are updated. Interim City Manager Joe Carlini responded thereto. With no further discussion, it was moved by Vice President Stroman, seconded by Board Member Cubas and unanimously carried to accept the item as presented.
- (4) **Accept Water System Development Program update.**
- (5) **Accept Financial Status Report.**
- (6) **Accept Public Works Monthly Water System Report.**
- (7) **Accept the Public Works performance report for April 2017.** Board Member Blevins pulled this item to inquire about the fleet availability number provided on the report. Solid Waste Manager Frank Rodriguez responded thereto. With no further discussion, it was moved by Board Member Blevins, seconded by Vice President Stroman and unanimously carried to accept the item as presented.

XII. 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.

- (1) **Appoint one representative and one alternate to the Kaweah River Basin Integrated Regional Water Management Group Governing Board and Stake Holder Advisory Group.** President Pennington opened this item for discussion. Following discussion, it was moved by Board Member Griesbach, seconded by Board Member Blevins and unanimously carried to appoint Board Member Cubas as the representative. It was moved by Board Member Blevins, seconded by Board Member Cubas and unanimously carried to appoint Vice President Stroman as the alternate.
- (2) **Discussion of the request by Colony Energy Partners-Tulare LLC (“Colony”), and the City of Tulare (“City”) to extend the Entitlement Period of the Property Lease entered into on May 11, 2015.** President Pennington opened this item for discussion. Pedro Hernandez of Leadership Council for

Justice and Accountability addressed the Board regarding General Business items 2 and 3. He expressed concerns regarding the decisions the City may make that may affect the residents of the communities his organization serves.

Matt Schmidt and Kent Hawkins of Colony Energy Partners addressed the Board regarding the lease and RFP (Request for Proposals).

Informational item only.

- (3) **Board to receive and review the Biogas Project History, current status of negotiations with RFP respondents, and a recommendation not to extend or amend the current lease agreement nor enter into renegotiations with Colony Energy Partners, LLC.** This item was discussed during Item 2. Following a lengthy discussion, it was moved by Board Member Blevins, seconded by Vice President Stroman and unanimously carried to extend the Entitlement Period of the lease an additional ten months beginning June 11, 2017.

It was moved by Board Member Griesbach, seconded by Vice President Stroman and unanimously carried to not enter into renegotiations with Colony Energy Partners.

XIII. ITEMS OF BOARD INTERESTS (may include City Council and Planning Commission updates) – GC 54954.2(3)

Items of Board interest were discussed among the Board and staff.

Board Member Blevins advised that he and another Board member took a tour of the Waste Water Treatment Plant and was very impressed. He would like to see future outreach so that members of the city can see what is being done at the plant.

City Attorney Heather Phillips advised the Board that she is working on developing trainings for the various Boards and Commissions.

XIV. ADJOURN TO CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION (S):

- (a) 54956.9(e)(2) Conference with Legal Counsel – Anticipated Litigation (1)
Facts and circumstances related to recent request(s) by Colony Energy relating to its lease of property adjacent to the City's Waste Water Treatment Plant (APN 174-040-006-000) as well as any additional requests it may make in its appearance before the BPU; and Colony Energy's position/role with respect to an RFP regarding Utilization of Biomethane and/or providing low cost electricity dated March 26, 2015; and the PPA negotiations that followed, and any requests Colony Energy may make in its appearance before the BPU, relating thereto. This closed session is to conference with counsel regarding any additional legal

questions or concerns that may arise following the receipt of information and discussion on the topic in open session.

XV. RECONVENE FROM CLOSED SESSION

President Pennington reconvened from the closed session at 9:26 p.m.

XVI. CLOSED SESSION REPORT (if any)

President Pennington advised there were no reportable items.

XVII. ADJOURN REGULAR MEETING

President Pennington the regular meeting at 9:33 p.m.

President of the Board of Public Utilities
Commissioners of the City of Tulare

ATTEST:

Secretary of the Board of
Public Utilities Commissioners

**CITY OF TULARE
SUMMARY TREASURER'S REPORT
SUMMARY OF ALL INVESTMENTS
APRIL 30, 2017**

AGENDA ITEM Consent 2

<u>TYPE OF INVESTMENT</u>	<u>BOOK VALUE</u>	<u>MARKET VALUE</u>	<u>CURRENT YIELD</u>	<u>BOOK VALUE % OF TOTAL</u>
UNRESTRICTED INVESTMENTS - SEE PAGE 2	101,193,880	100,128,132	1.211%	58.34%
RESTRICTED INVESTMENTS - SEE PAGE 4	<u>72,262,855</u>	<u>71,617,482</u>	N/A	<u>41.66%</u>
TOTAL INVESTMENTS	<u><u>173,456,735</u></u>	<u><u>171,745,614</u></u>	N/A	<u><u>100.00%</u></u>

Note: The City's financial statements will report market values, not book values, at June 30 each year.

I certify that this report reflects all City investments and complies with the investment policy of the City of Tulare as approved by City Council. Furthermore, I certify that sufficient investment liquidity and anticipated revenues are available to meet the City's budgeted expenditures for the next six months.

Presented to the City Council on May 23, 2017.

Presented to the Board of Public Utility Commissioners on May 23, 2017.

Respectfully submitted, Darlene J. Thompson, CPA, Finance Director/Treasurer



5.23.17

Date

CITY OF TULARE
SUMMARY TREASURER'S REPORT, CONTINUED
SUMMARY OF UNRESTRICTED INVESTMENTS
APRIL 30, 2017

TYPE OF INVESTMENT	ISSUER OF INVESTMENT	DATES:		INTEREST RATES:		BOOK VALUE	UNREALIZED GAIN/(LOSS):	ESTIMATED EARNINGS:	BOOK VALUE	
		ACQUISITION	MATURITY	STATED	CURRENT YIELD					PAR VALUE
Petty Cash	N/A	N/A	N/A	N/A	N/A	6,825	N/A	N/A	0.01%	
		N/A	None			6,825	N/A	N/A		
Checking Account - City	Wells Fargo Bank	N/A	N/A	N/A	N/A	911,722	N/A	N/A	0.90%	
		On Demand	None			911,722	N/A	N/A		
						Balance per bank is \$1,695,109				
Heritage Money Market	CalTrust	Various	N/A	N/A	N/A	16,039,745	N/A	N/A	15.85%	
		On Demand	1.060%			16,039,745	N/A	N/A		
Local Agency Investment Fund (LAIF)	State of California	Various	N/A	N/A	N/A	22,525,918	(18,562)	199,129	22.26%	
		On Demand	0.884%	*		22,507,356	(11,949)	16,594		
Certificate of Deposit	Various (See page 5)	Various	N/A	N/A	N/A	Per BNY WTC 245,000	(785)	2,695	0.24%	
Investments in Safekeeping With BNY Western Trust Company		Various	1.100%			244,215	(1,207)	225		
Sub-Total			N/A	N/A		39,729,210	(19,347)	201,824	39.26%	
			0.508%			39,709,863	(13,156)	16,819		
Fixed Income Investments	Various (See page 6-8)		N/A	N/A	N/A	Per BNY WTC 61,464,670	(1,046,401)	1,011,001	60.74%	
Investments in Safekeeping With BNY Western Trust Company			1.670%			60,418,269	(1,368,033)	84,250		
TOTAL UNRESTRICTED INVESTMENTS			N/A	N/A		101,193,880	(1,065,748)	1,212,825	100.00%	
			1.211%			100,128,132	(1,381,189)	101,069		

* LAIF market values are based on the most currently available amortized cost information - March, 2017:

0.999175951

~ U/I = Unrestricted Investments

CITY OF TULARE
SUMMARY TREASURER'S REPORT, CONTINUED
SUMMARY OF RESTRICTED INVESTMENTS
APRIL 30, 2017

TYPE OF INVESTMENT	ISSUER OF INVESTMENT	ACQUISITION DATE	MATURITY DATE	STATED INTEREST RATE	PAR VALUE	BOOK VALUE	MARKET VALUE	BALANCES AS-OF DATE
Bond Funds (All are Managed by U.S. Bank Trust Except LAIF):								
2008 Lease Revenue and Refunding Bonds (Account No. 120887000)								
FA Prime Obl CL D Corp Trust	U.S. Bank Trust	Various	On Demand	Various	N/A	1,016	1,016	04-30-17
U S Bk Mmkt	U.S. Bank Trust	Various	On Demand	Various	N/A	<u>1,166,677</u>	<u>1,166,677</u>	04-30-17
				Reserve Fund		<u>1,167,693</u>	<u>1,167,693</u>	
2009 Sewer Revenue Bonds (Account No. 133007000)								
U S Bk Mmkt	U.S. Bank Trust	Various	On Demand	Various	N/A	1,231,510	1,231,510	04-30-17
U S Bk Mmkt	U.S. Bank Trust	Various	On Demand	Various	N/A	104	104	04-30-17
				Reserve Fund				
Ge Funding Cap Mkt Svcs GIC	Ge Funding	08-06-09	08-06-19	3.812%	N/A	<u>5,706,172</u>	<u>5,706,172</u>	04-30-17
				Reserve Fund		<u>6,937,786</u>	<u>6,937,786</u>	
2012 Sewer Revenue Refunding Bonds (Account No. 162033000)								
U S Bk Mmkt	U.S. Bank Trust	Various	On Demand	Various	N/A	309,057	309,057	04-30-17
U S Bk Mmkt	U.S. Bank Trust	Various	On Demand	Various	N/A	<u>923,926</u>	<u>923,926</u>	04-30-17
				Reserve Fund		<u>1,232,983</u>	<u>1,232,983</u>	
2013 Sewer Revenue Refunding Bonds (Account No. 203701000)								
U S Bk Mmkt	U.S. Bank Trust	Various	On Demand	Various	N/A	31,711	31,711	04-30-17
Guarantee Invest. Cont.	Bayerische Landesbank	08-01-13	11-15-22	2.310%	N/A	<u>2,745,126</u>	<u>2,745,126</u>	04-30-17
				Reserve Fund		<u>2,776,837</u>	<u>2,776,837</u>	
2015 Sewer Revenue Refunding Bonds (Account No. 2615940000)								
U S Bk Mmkt	U.S. Bank Trust	Various	On Demand	Various	N/A	65,361	65,361	04-30-17
Investment Repurchase GIC	Bayerische Landesbank	11-15-15	11-15-25	1.960%	N/A	<u>6,668,131</u>	<u>6,668,131</u>	04-30-17
				Reserve Fund		<u>6,733,492</u>	<u>6,733,492</u>	
2016 Sewer Revenue Refunding Bonds (Account No. 260)								
Cash						9,558	9,558	04-30-17
Cash					Reserve Fund - 2009 Sewer Bonds	24,347	24,347	04-30-17
U S Treasuries	U S Treasuries	Various	11-15-16 to 11-15-19	.625% - 3.75%	N/A	<u>53,347,973</u>	<u>52,736,505</u>	04-30-17
					Reserve Fund - 2009 Sewer Bonds	<u>53,381,878</u>	<u>52,736,505</u>	

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CITY OF TULARE
SUMMARY TREASURER'S REPORT, CONTINUED
SUMMARY OF RESTRICTED INVESTMENTS
APRIL 30, 2017

<u>TYPE OF INVESTMENT</u>	<u>ISSUER OF INVESTMENT</u>	<u>ACQUISITION DATE</u>	<u>MATURITY DATE</u>	<u>STATED INTEREST RATE</u>	<u>PAR VALUE</u>	<u>BOOK VALUE</u>	<u>MARKET VALUE</u>	<u>BALANCES AS-OF DATE</u>	
Bond Funds (All are Managed by U.S. Bank Trust Except LAIF):									
2017 Successor Agency Tax Allocation Bonds - Series A & B (Account No. 24534600)									
U S Bk Mmkt	U.S. Bank Trust	Various	On Demand	Various Reserve Fund	N/A	10,829	10,829	04-30-17	
						<u>10,829</u>	<u>10,829</u>		
TOTAL BOND FUNDS						<u>72,241,498</u>	<u>71,596,125</u>		
Restricted Insurance Deposits Managed by Fiscal Agents:									
Employee Welfare Fund	(60)	Various	N/A	N/A	Various	N/A	(12,594)	(12,594)	04-30-17
Workers' Comp. Fund	(61)	Various	N/A	N/A	Various	N/A	0	0 *	06-30-16
General Insurance Fund	(62)	Various	N/A	N/A	Various	N/A	33,951	33,951 *	06-30-16
						<u>21,357</u>	<u>21,357</u>		
						* NOTE: Reported as information is made available.			
						* Adjusted annually.			
TOTAL RESTRICTED INVESTMENTS				<i>Book Value % of Total Investments =</i>				41.66%	
						<u>72,262,855</u>	<u>71,617,482</u>		

CITY OF TULARE
SUMMARY TREASURER'S REPORT, CONTINUED
CERTIFICATES OF DEPOSIT
APRIL 30, 2017

<u>INSTITUTION</u>	<u>CUSIP NUMBER</u>	<u>INTEREST RATES:</u>		<u>DATES:</u>		<u>BOOK VALUE</u> <u>MARKET VALUE</u>	<u>UNREALIZED GAIN/(LOSS)</u>		<u>ESTIMATED EARNING:</u>	
		<u>STATED</u>	<u>CURRENT YIELD</u>	<u>ACQUISITION</u>	<u>INVESTED</u>		<u>THIS MONTH</u>	<u>LAST MONTH</u>	<u>ANNUAL</u>	<u>THIS MONTH</u>
						PerBNY WTC				
Goldman Sachs	36160YTT2	1.100%		03/01/2013		245,000	(785)			2,695
		1.100%		03/01/2018		244,215	(1,207)			229
TOTAL CERTIFICATES OF DEPOSITS						245,000	(785)			2,695
All are in safekeeping with BNY Western Trust Company			1.100%			244,215	(1,207)			229

CITY OF TULARE
SUMMARY TREASURER'S REPORT, CONTINUED
FIXED INCOME INVESTMENTS
APRIL 30, 2017

TYPE OF FIXED INCOME INVESTMENT	CUSIP NUMBER	DATES:		INTEREST RATES:		BOOK VALUE MARKET VALUE	UNREALIZED	ESTIMATED
		ACQUISITION	MATURITY	STATED	CURRENT YIELD		GAIN/(LOSS): THIS MONTH	LAST MONTH
<u>U.S. GOVERNMENT AGENCY OBLIGATIONS</u>								
						Per BNY WTC		
Federal Farm Credit Bks		12-26-12		0.900%	1,500,000	1,500,000	0	13,500
	3133ECB45	12-26-17	C	0.900%		1,500,000	0	1,125
Federal Farm Credit Bks		01-16-13		0.900%	1,000,000	1,000,000	(1,420)	9,000
	3133ECCZ5	01-16-18	C	0.900%		998,580	(1,670)	750
Federal Farm Credit Banks		05-08-13		0.950%	2,000,000	2,000,000	(3,500)	19,000
	3133ECNY6	05-08-18	C	0.950%		1,996,500	(4,980)	1,583
Federal Home Ln Bks		07-13-16		1.375%	1,500,000	1,500,000	(11,775)	20,625
	3130A8MP5	10-13-20	C	1.390%		1,488,225	(35,070)	1,719
Federal Home Ln Bks		10-28-15		1.720%	2,000,000	2,000,000	0	34,400
	3130A6MH7	10-28-20	C	1.720%		2,000,000	(6,800)	2,867
Federal Nat'l Mortgage Assoc		09-30-16		1.500%	1,500,000	1,500,000	(33,690)	22,500
	3136G4AB9	12-30-20	C	1.530%		1,466,310	(40,605)	1,875
Federal Farm Credit Banks		07-19-16		1.440%	1,000,000	999,250	(29,160)	14,400
	3133EGMP7	01-19-21	C	1.480%		970,090	(33,920)	1,200
Federal Farm Credit Banks		07-06-16		1.500%	2,500,000	2,500,000	(88,925)	37,500
	3133EGKA2	07-06-21	C	1.560%		2,411,075	(102,050)	3,125
Federal Nat'l Mortgage Assoc		07-27-16		1.500%	1,000,000	998,750	(17,420)	15,000
	3136G3A70	07-27-21	C	1.530%		981,330	(22,510)	1,250
Federal Nat'l Mortgage Assoc		07-27-16		1.550%	1,000,000	999,500	(17,320)	15,500
	3136G3G90	07-27-21	C	1.580%		982,180	(28,820)	1,292
Federal Nat'l Mortgage Assoc		07-28-16		1.550%	1,000,000	999,250	(24,990)	15,500
	3136G3C78	07-28-21	C	1.590%		974,260	(30,180)	1,292
Federal Nat'l Mortgage Assoc		07-28-16		1.600%	2,000,000	2,000,000	(56,400)	32,000
	3136G3J30	07-28-21	C	1.650%		1,943,600	(66,760)	2,667

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CITY OF TULARE
SUMMARY TREASURER'S REPORT, CONTINUED
FIXED INCOME INVESTMENTS, CONTINUED
APRIL 30, 2017

TYPE OF FIXED INCOME INVESTMENT	CUSIP NUMBER	DATES:		INTEREST RATES:		PAR VALUE	BOOK VALUE MARKET VALUE	UNREALIZED	ESTIMATED
		ACQUISITION	MATURITY	STATED	CURRENT YIELD			GAIN/(LOSS): THIS MONTH LAST MONTH	EARNINGS: ANNUAL THIS MONTH
<u>U.S. GOVERNMENT AGENCY OBLIGATIONS, CONTINUED</u>									
				**			Per BNY WTC		
Federal Nat'l Mortgage Assoc		07-28-16			1.650%	2,000,000	2,000,000	(49,480)	33,000
	3136G3R72	07-28-21	C		16.900%		1,950,520	(59,820)	2,750
Federal Nat'l Mortgage Assoc		10-28-16			1.500%	1,500,000	1,500,000	(28,695)	22,500
	3136G4EF6	07-28-21	C		1.530%		1,471,305	(36,375)	1,875
Federal Home Loan Mtg Corp		08-24-16			1.550%	2,000,000	2,000,000	(38,560)	31,000
	3134G94T1	08-24-21	C		1.580%		1,961,440	(48,960)	2,583
Federal Nat'l Mortgage Assoc		08-24-16			1.500%	1,500,000	1,500,000	(45,705)	22,500
	3136G3X26	08-24-21	C		1.550%		1,454,295	(53,685)	1,875
Federal Home Loan Mtg Corp		08-25-16			1.625%	3,000,000	3,000,000	(92,250)	48,750
	3134G9X44	08-25-21	C		1.680%		2,907,750	(108,180)	4,063
Federal Nat'l Mortgage Assoc		08-25-16			1.500%	1,500,000	1,500,000	(42,900)	22,500
	3136G3Y25	08-25-21	C		1.540%		1,457,100	(50,850)	1,875
Federal Home Loan Mtg Corp		09-29-16			1.650%	2,000,000	2,000,000	(30,240)	33,000
	3134GAEF7	09-29-21	C		1.680%		1,969,760	(67,340)	2,750
Federal Home Ln Bks		09-30-16			1.625%	2,000,000	1,999,200	(25,160)	32,500
	3130A9F89	09-30-21	C		1.650%		1,974,040	(35,760)	2,708
Federal Nat'l Mortgage Assoc		09-30-16			1.625%	2,000,000	2,000,000	(51,860)	32,500
	3136G4AH6	09-30-21	C		1.670%		1,948,140	(62,560)	2,708
Federal Nat'l Mortgage Assoc		09-30-16			1.500%	1,500,000	1,499,775	(40,350)	22,500
	3136G4CY7	09-30-21	C		1.540%		1,459,425	(48,420)	1,875
Federal Home Ln Banks		10-12-16			1.700%	1,500,000	1,500,000	(27,900)	25,500
	3130A9GS4	10-12-21	C		1.730%		1,472,100	(35,850)	2,125
Federal Home Ln Banks		10-12-16			1.580%	1,500,000	1,500,000	(44,820)	23,700
	3130A9KH3	10-12-21	C		1.630%		1,455,180	(52,965)	1,975

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CITY OF TULARE
SUMMARY TREASURER'S REPORT, CONTINUED
FIXED INCOME INVESTMENTS, CONTINUED
APRIL 30,, 2017

TYPE OF FIXED INCOME INVESTMENT	CUSIP NUMBER	DATES:		INTEREST RATES:		BOOK VALUE MARKET VALUE	UNREALIZED	ESTIMATED
		ACQUISITION	MATURITY	STATED	CURRENT YIELD		PAR VALUE	GAIN/(LOSS): THIS MONTH LAST MONTH
<u>U.S. GOVERNMENT AGENCY OBLIGATIONS, CONTINUED</u>								
			**			Per BNY WTC		
Federal Nat'l Mortgage Assoc		10-13-16		1.650%	2,255,000	2,255,000	(58,066)	37,208
	3136G4AS2	10-13-21	C	1.670%		2,196,934	(70,198)	3,101
Federal Nat'l Mortgage Assoc		10-25-16		1.550%	1,500,000	1,500,000	(36,705)	23,250
	3136G4ED1	10-25-21	C	1.590%		1,463,295	(44,775)	1,938
Federal Home Ln Mtg Corp		11-10-16		1.700%	2,500,000	2,500,000	(59,675)	42,500
	3131GATC8	11-10-21	C	1.740%		2,440,325	(73,250)	3,542
Federal Home Ln Mtg Corp		11-22-16		1.650%	2,000,000	2,000,000	(48,320)	33,000
	3134GAUB8	11-22-21	C	1.690%		1,951,680	(59,260)	2,750
Federal Nat'l Mtg Corp		11-23-16		1.600%	2,000,000	2,000,000	(43,580)	32,000
	3136G4GM9	11-23-21	C	1.640%		1,956,420	(54,500)	2,667
Federal Home Ln Bks		11-24-16		2.070%	2,500,000	2,500,000	(1,050)	51,750
	3130AABC1	11-24-21	C	2.070%		2,498,950	(14,050)	4,313
Federal Home Ln Bks		12-30-16		2.200%	2,220,000	2,213,340	6,904	48,840
	3130AAFG8	12-30-21	C	2.200%		2,220,244	3,219	4,070
Federal Home Ln Mtg Corp		12-30-16		2.000%	2,000,000	2,000,000	(5,560)	40,000
	3134GAYV0	12-30-21	C	2.010%		1,994,440	(16,240)	3,333
Federal Nat'l Mtg Assoc		02-14-17		2.250%	3,000,000	2,999,625	945	67,500
	3136G4LE1	02-14-22	C	2.250%		3,000,570	(5,475)	5,625
Federal Home Ln Mrg Corp		03-29-17		2.400%	1,500,000	1,500,000	1,215	36,000
	3134GBB01	03-29-22	C	2.400%		1,501,215	615	3,000
Government National Mortgage Association II Pool		01-24-94		8.500%	N/A	980	11	78
		09-20-22		7.880%		991	11	7
TOTAL FIXED INCOME INVESTMENTS				N/A	N/A	61,464,670	(1,046,401)	1,011,001
All are in safekeeping with BNY Western Trust Company				1.670%		60,418,269	(1,368,033)	84,250

~ U/I = Unrestricted Investments

AGENDA ITEM: Gen. Bus. Public Hearing 1(a)

**CITY OF TULARE, CALIFORNIA
BOARD OF PUBLIC UTILITIES COMMISSIONERS
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: City Manager's Office

For Board Meeting of: June 1, 2017

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Public Hearing to adopt Resolution 17-03 approving the 2017/18 Fiscal Year Municipal Utility Budget; to adopt Resolution 17-04 approving the 2017/18 Fiscal Year City's Utility Position Control Budget; and to adopt Resolution 17-05 approving the 2017/18-2021/22 Projects Budget (including the Capital Improvement Plan).

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

At the April 20, 2017 meeting, the Board was provided with the proposed Municipal Utility Budget for fiscal year 2017/18, Utility Personnel Control Budgets, and the fiscal years 2017/18-2021/22 projects budget.

The Board is requested to formally adopt, by way of public hearing, the above listed proposed budgets and related resolutions.

Operating Budget (including the Position Control Budget (PCB))

The complete proposed utility funds operating budgets for the water, sewer/wastewater/storm water pollution control, and solid waste enterprise funds (including all their component elements and assumptions) are submitted for Board approval at the public hearing by resolution.

Projects Budget

Pursuant to the Tulare Project Management System policy, the Utility Projects Budget for FY 2017/18-2021/22 is submitted to the Board for approval at the public hearing by resolution.

STAFF RECOMMENDATION:

Public Hearing to adopt Resolution 17-03 approving the 2017/18 Fiscal Year Municipal Utility Budget; to adopt Resolution 17-04 approving the 2017/18 Fiscal Year City's Utility Position Control Budget; and to adopt Resolution 17-05 approving the 2017/18-2021/22 Projects Budget (including the Capital Improvement Plan).

CITY ATTORNEY REVIEW/COMMENTS: Yes N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A

FUNDING SOURCE/ACCOUNT NUMBER:

Submitted by: Joseph V. Carlini

Title: Interim City Manager

Date: May 22, 2017

City Manager Approval: _____

RESOLUTION 17-03

A RESOLUTION OF THE BOARD OF PUBLIC UTILITIES OF THE CITY OF TULARE ADOPTING THE 2017/2018 FISCAL YEAR MUNICIPAL UTILITY BUDGET AND ALL SECTIONS THEREIN

WHEREAS, the City Manager has prepared a municipal utility budget for the fiscal year ending June 30, 2018, which includes budgets for the City's Water, Sewer/Wastewater and Solid Waste Enterprise Funds ("Proposed Budget"), a copy of which is on file in the Office of the City Clerk; and,

WHEREAS, the Board of Public Utilities has examined the Proposed Budget, has conferred with the City Manager and appropriate staff in public sessions, and has deliberated and considered the Proposed Budget during public hearings.

NOW THEREFORE, THE BOARD OF PUBLIC UTILITIES OF THE CITY OF TULARE HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Manager is hereby directed to prepare the final budget, in substantial conformance with the Proposed Budget, and as directed by the Board of Public Utilities, for the Fiscal Year July 1, 2017 through June 30, 2018. The final budget shall be the "City of Tulare, Fiscal Year 2017/2018 Adopted Municipal Utility Budget," and includes all sub-component budgets and assumptions. The final budget may be referred to as "the Budget," and a copy of the Budget shall be filed in the Office of the City Clerk. The Budget is hereby adopted and approved.

SECTION 2. The City Manager is hereby authorized to implement the Budget as set forth in this resolution. The City Manager may delegate the authority to implement this resolution to the Finance Director, or other designated City employees.

SECTION 3. The City Manager is authorized to transfer appropriations as needed from savings available in any account in the Budget to any other accounts within the same fund to meet overall Budget requirements.

SECTION 4. The City Manager is authorized to transfer among the various funds the sums appropriated in the Proposed Budget with the descriptive designations of either "Transfers" or "Operating Transfers," in such increments and at such intervals determined by the City Manager.

SECTION 5. The City Manager is authorized to increase appropriations for fiscal year 2017/18 expenditures in an amount not to exceed the amount of funds encumbered, but not yet expended, from Fiscal Year 2016/17. The actual amount of the increased appropriations due to encumbrances will be reported to the Board of Public Utilities, as part of the Fiscal Year 2017/18 year-end financial report.

SECTION 6. When revenue estimates exceed the amount identified in the Budget due to increases in grant revenues as verified by the Finance Director, the City Manager is authorized to increase appropriations for Fiscal Year 2017/18 expenditures in an amount not to exceed the amount of increased revenues. Approval of increased appropriations shall be made in writing by the City Manager, filed with the Finance Director, and reported to the Board of Public Utilities as part of the Fiscal Year 2017/18 year-end financial report.

SECTION 7. The City Manager is instructed to use restricted funding sources in accordance with the requirements of the funding sources prior to using funds with unrestricted resources in order to allow the City the greatest flexibility in meeting its financial obligations.

SECTION 8. The City Manager is authorized to approve, in accordance with the City's adopted Purchasing Policy, purchases of items identified in the Fleet Control Budget and Equipment Replacement Budget (which are approved component budgets of the Proposed Budget) in accord with those budget's appropriations.

SECTION 9. The City Manager is instructed to cause all transfers into reserves specified in the Budget Document transmittal report to occur and to hold and administer said reserves in accordance with Board policies. The City Manager, or any person to whom such responsibility is delegated by the City Manager, to administer the contributions into revolving funds for Project Budgets, Equipment Replacement, and Fleet Replacement in accordance with Board policies and best practices. Activities occurring in these reserves will be reported to the City Council as part of the Fiscal Year 2017/18 year-end financial report.

SECTION 10. The City Council approved City of Tulare Administrative Policy No. 13-02 (Budget Policies & Practices) on June 4, 2013, this policy and all subsequent amendments are incorporated herein by reference. The City Manager is instructed to update said policies from time to time for Board of Public Utility review.

SECTION 11. The City Manager is instructed to implement all policies contained in the "Policies" section of the Budget, taking the best interests of the City into account with regard to particular circumstances.

SECTION 12. This resolution shall take effect immediately upon its adoption.

SECTION 13. The Assignments of fund balance included in the adopted budget, which were made by the Finance Director, are approved.

BE IT FURTHER RESOLVED BY THE BOARD OF PUBLIC UTILITIES OF THE CITY OF TULARE, AS FOLLOWS, TO WIT:

SECTION 14. The Board of Public Utilities of the City of Tulare approves and adopts the 2017/2018 Fiscal Year Budget Document and all sections and components

therein. The total City Funds expenditure budget of \$49,021,750 is summarized by the following funds and functions:

**CITY OF TULARE
PROPOSED MUNICIPAL UTILITY (APPROPRIATIONS) BUDGET
FISCAL YEAR 2017/2018**

MUNICIPAL UTILITY BUDGET (Amounts are Approximate):

I. <u>WATER FUND</u>	
Administration Division	\$ 2,110,290
Distribution Division	2,683,830
Extraction Division	2,136,650
Treatment Division	355,520
Groundwater Division	980,140
TOTAL WATER FUND	<u>\$ 8,266,430</u>
II. <u>SEWER/WASTEWATER FUND</u>	
Sanitary Sewer Division	\$ 4,242,980
Domestic Wastewater Division	8,992,320
Industrial Wastewater Division	17,449,670
Pretreatment Division	145,520
Energy Plant Division	1,700,860
TOTAL SEWER/WASTEWATER FUND	<u>\$ 32,531,970</u>
III. <u>SOLID WASTE FUND</u>	
Residential Division	\$ 4,551,730
Commercial Division	2,213,620
Street Sweeping Division	722,790
Roll-off	735,830
TOTAL SOLID WASTE FUND	<u>\$ 8,223,970</u>
GRAND TOTAL – ALL UTILITY ENTERPRISE FUNDS	<u>\$ 49,021,750</u>

Passed, approved, and adopted this ____ day of June, 2017.

President of the Board
Commissioners of the City of Tulare

ATTEST:

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF TULARE)

I, Joseph V. Carlini, City Clerk of the City of Tulare, certify the foregoing is the full and true Resolution 17-03 passed and adopted by the Board of Public Utilities of the City of Tulare at a regular meeting held on June 1, 2017, by the following vote:

Aye(s) _____

Noe(s) _____ Absent _____.

Dated: JOSEPH V CARLINI, CITY CLERK

By Melissa Hermann, Interim Deputy City Clerk

RESOLUTION 17-04

A RESOLUTION OF THE BOARD OF PUBLIC UTILITIES OF THE CITY OF TULARE ADOPTING THE 2017/18 FISCAL YEAR MUNICIPAL UTILITY POSITION CONTROL BUDGET

WHEREAS, the City's Municipal Utility Position Control Budget sets the authorized positions and salary class (which sets the range) and compensation for the fiscal year; and,

WHEREAS, the City Municipal Utility budgets are adopted by the Board of Public Utilities and filed with the City Council pursuant to the City's charter document so no further action on those budgets is required; and,

WHEREAS, the Board of Public Utilities of the City of Tulare has considered on Thursday, June 1, 2017, the adoption of the 2017/18 Fiscal Year City's Utility Position Control Budget (PCB) and has appropriated all funds necessary to pay salaries as part of adopting the Operating Budget for the utility services it oversees.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Public Utilities of the City of Tulare:

that the PCB is hereby adopted;

that the City Manager is required to bring any additions to the PCB of authorized positions or any changes in any position's salary range to be made during the fiscal year to the Board for further approval;

that the City Manager is authorized to make changes to job descriptions, including without limitation title changes that do not affect the positional role in the PCB or the positional salary range, to make changes to job responsibilities that do not affect the PCB or require approval as part of the collective bargaining process, and to re-allocate funding sources among divisions within the same Municipal Utility fund for any position;

that the City Manager, or his or her designee, is authorized to recruit and fill in anticipation of known upcoming vacancies to minimize periods where there are key unfilled positions even though employee counts temporarily exceed the authorized position count for a particular position; provided, however, that there will be no adjustment to the total divisional appropriations and all such costs must be covered by savings in other line items so that the total division budget remains unchanged.

PASSED, ADOPTED AND APPROVED this ____ day of June 2017.

President of the Board of Public Utilities of
the City of Tulare

ATTEST:

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF TULARE)

I, Joseph V. Carlini, City Clerk of the City of Tulare, certify the foregoing is the full and true Resolution 17-04 passed and adopted by the Board of Public Utilities of the City of Tulare at a regular meeting held on June 1, 2017, by the following vote:

Aye(s) _____

Noe(s) _____ Abstention(s) _____.

Dated: JOSEPH V CARLINI, CITY CLERK

By Melissa Hermann, Interim Deputy City Clerk

City of Tulare
Utility Position Control Budget (Allocated Positions) FY 2017-18

<i>Position number</i>	<i>Title</i>	<i>Home Dept</i>	<i>FTE</i>
	WATER FUND - 010		Total 17
MM03E0917-001	WATER & WW COLL UTILITY MGR	010-4610	1.00
NM08N0920-001	WATER TREATMENT TECHNICIAN	010-4610	1.00
NM08N0935-003	WATER UTILITY CREW LEADER	010-4610	1.00
NM05N0920-002	WATER TREATMENT TECHNICIAN	010-4610	1.00
NM0070965-001	WATER UTILITY SUPERVISOR	010-4610	1.00
NM08N0950-001	WATER UTILITY MAINT. WORKER II	010-4610	1.00
NM08N0945-005	WATER UTILITY MAINT. WORKER I	010-4610	1.00
NM08N0500-002	METER READER	010-4610	1.00
NM08N0935-002	WATER UTILITY CREW LEADER	010-4610	1.00
NM08N0950-005	WATER UTILITY MAINT. WORKER II	010-4610	1.00
NM08N0500-001	METER READER	010-4610	1.00
NM08N0945-002	WATER UTILITY MAINT. WORKER I	010-4610	1.00
NM08N0950-002	WATER UTILITY MAINT. WORKER II	010-4610	1.00
NM08N0945-003	WATER UTILITY MAINT. WORKER I	010-4610	1.00
NM08N0945-001	WATER UTILITY MAINT. WORKER I	010-4610	1.00
NM08N0950-003	WATER UTILITY MAINT. WORKER II	010-4610	1.00
	WATER CONSERVATION OFFICER	010-4610	1.00
	SOLID WASTE FUND - 012		Total 34
- Home department : 012-4710 (Count: 20)			
NM03N0790-001	SOLID WASTE SUPERVISOR	012-4710	1.00
NM03N0790-002	SOLID WASTE SUPERVISOR	012-4710	1.00
CP06N0235-004	DEPARTMENT ASSISTANT II	012-4710	1.00
NM08N0780-001	SOLID WASTE OPERATOR	012-4710	1.00
NM08N0780-005	SOLID WASTE OPERATOR	012-4710	1.00
NM08N0781-002	SOLID WASTE MAINTENANCE WKR	012-4710	1.00
NM08N0780-011	SOLID WASTE OPERATOR	012-4710	1.00
CP06N0235-001	DEPARTMENT ASSISTANT II	012-4710	1.00
MM03E0785-002	SOLID WASTE MANAGER	012-4710	1.00
NM08N0780-006	SOLID WASTE OPERATOR	012-4710	1.00
NM08N0780-003	SOLID WASTE OPERATOR	012-4710	1.00
NM08N0780-009	SOLID WASTE OPERATOR	012-4710	1.00
NM08N0780-013	SOLID WASTE OPERATOR	012-4710	1.00
NM08N0780-004	SOLID WASTE OPERATOR	012-4710	1.00
NM08N0780-002	SOLID WASTE OPERATOR	012-4710	1.00
MM01E0650-001	PUBLIC WORKS DIRECTOR	012-4710	1.00
NM08N0780-007	SOLID WASTE OPERATOR	012-4710	1.00
NM08N0780-010	SOLID WASTE OPERATOR	012-4710	1.00
NM08N0781-001	SOLID WASTE MAINTENANCE WKR	012-4710	1.00
NM08N0781-002	SOLID WASTE MAINTENANCE WKR	012-4710	1.00
- Home department : 012-4711 (Count: 9)			
NM07N0776-001	SOLID WASTE MAINT CREW LEADER	012-4711	1.00
NM07N0776-002	SR SOLID WASTE MAINTENANCE WKR	012-4711	1.00
NM08N0765-002	SR. SOLID WASTE OPERATOR	012-4711	1.00

<i>Position number</i>	<i>Title</i>	<i>Home Dept</i>	<i>FTE</i>
NM08N0765-010	SENIOR SOLID WASTE OPERATOR	012-4711	1.00
NM08N0765-001	SENIOR SOLID WASTE OPERATOR	012-4711	1.00
NM08N0765-006	SENIOR SOLID WASTE OPERATOR	012-4711	1.00
NM08N0765-003	SENIOR SOLID WASTE OPERATOR	012-4711	1.00
NM08N0765-005	SENIOR SOLID WASTE OPERATOR	012-4711	1.00
NM07N0776-003	SR SOLID WASTE MAINTENANCE WKR	012-4711	1.00
- Home department : 012-4712 (Count: 3)			
NM08N0782-001	SOLID WASTE OPR/ST SWEEPER	012-4712	1.00
NM08N0805-002	STREET SWEEPER OPERATOR	012-4712	1.00
NM08N0805-001	STREET SWEEPER OPERATOR	012-4712	1.00
- Home department : 012-4713 (Count: 2)			
NM08N0765-004	SENIOR SOLID WASTE OPERATOR	012-4713	1.00
NM08N0765-007	SENIOR SOLID WASTE OPERATOR	012-4713	1.00
	SEWER/WASTEWATER FUND - 015		32 Total
- Home department : 015-4651 (Count: 6)			
NM08N0875-003	WASTEWATER COLL. MAINT. WKR II	015-4651	1.00
NM07N0865-001	WW COLL. MAINT. CREW LEADER	015-4651	1.00
NM03N0844-001	WASTEWATER COLL. MAINT. SUPV	015-4651	1.00
NM08N0875-002	WASTEWATER COLL. MAINT. WKR II	015-4651	1.00
NM08N0875-001	WASTEWATER COLL. MAINT. WKR II	015-4651	1.00
NM08N0870-002	WASTEWATER COLL. MAINT. WKR I	015-4651	1.00
- Home department : 015-4652 (Count: 26)			
NM03N0915-001	WASTEWATER PLANT SUPERVISOR	015-4652	1.00
NM03N0430-001	LABORATORY TECHNICIAN	015-4652	1.00
NM03N0432-001	LABORATORY SUPERVISOR	015-4652	1.00
NM05N0895-001	WWTP OPERATOR II	015-4652	1.00
CP06N0235-007	DEPARTMENT ASSISTANT II	015-4652	1.00
NM05N0880-001	WASTEWATER MAINT. TECHNICIAN I	015-4652	1.00
NM05N0425-001	LABORATORY ASSISTANT	015-4652	1.00
NM05N0880-002	WASTEWATER MAINT. TECHNICIAN I	015-4652	1.00
NM03N0915-002	WASTEWATER PLANT SUPERVISOR	015-4652	1.00
NM05N0895-004	WWTP OPERATOR II	015-4652	1.00
NM05N0895-003	WWTP OPERATOR II	015-4652	1.00
NM05N0895-002	WWTP OPERATOR II	015-4652	1.00
NM03N0879-001	WW MAINTENANCE TECH CREW LDR	015-4652	1.00
NM05N0405-001	ENVIRONMENTAL COMPLIANCE INSP	015-4652	1.00
MM02E0490-001	MANAGEMENT ANALYST	015-4652	1.00
MM03E0884-001	OPERATIONS MANAGER	015-4652	1.00
NM05N0880-003	WASTEWATER MAINT. TECHNICIAN I	015-4652	1.00
NM05N0895-007	WWTP OPERATOR II	015-4652	1.00
NM05N0895-008	WWTP OPERATOR II	015-4652	1.00
NM05N0895-005	WWTP OPERATOR II	015-4652	1.00
NM03N0900-003	WWTP OPERATOR III	015-4652	1.00
NM08N0905-002	WWTP OPERATOR TRAINEE	015-4652	1.00
NM08N0905-001	WWTP OPERATOR TRAINEE	015-4652	1.00
NM08N0905-003	WWTP OPERATOR TRAINEE	015-4652	1.00

<i>Position number</i>	<i>Title</i>	<i>Home Dept</i>	<i>FTE</i>
NM03N0877-001	WASTEWATER ELECTRICAL TECH I	015-4652	1.00
NM03N0881-001	WASTEWATER MAINT TECHNICIAN II	015-4652	1.00
Total allocated positions - Utility Funds			<u>83.00</u>

RESOLUTION 17-05

**A RESOLUTION OF THE BOARD OF PUBLIC UTILITIES OF THE
CITY OF TULARE ADOPTING THE 2017/2018 – 2021/22
PROJECTS BUDGET (INCLUDING THE CAPITAL IMPROVEMENT PLAN)**

WHEREAS, the Projects Budget is a tool to match resources to the list of possible City goals that involve either efforts expected to last more than one year or one time projects that need managing or ongoing allocations for capital maintenance; and

WHEREAS, each project idea was researched in terms of the financing available to do the project, the pending status of the project, and the project management resources available to oversee and steer each project; and

WHEREAS, the Planning Commission reviewed the projects that are recommended for planning, initiation, or construction for fiscal years 2017/18 – 2021/22 and report they are in conformance with the Tulare General Plan; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TULARE, AS FOLLOWS, TO WIT:

1. The Board of Public Utilities of the City of Tulare approves and adopts the 2017/2018 – 2021/22 Projects Budget (including the Capital Improvement Plan);
2. The City Manager, and any persons to whom the City Manager delegates such authority and responsibility, is authorized and directed to administer the Projects Budget consistently with all policies adopted by the City Council (and where pertinent by the Board of Public Utilities with regard to the City of Tulare Utility operations), including without limitation the Tulare Project Management System Policy and the Tulare Transportation System Planning Policy.

PASSED, ADOPTED, AND APPROVED this ____ day of June, 2017.

President of the Board of Public Utilities
Commissioners of the City of Tulare

ATTEST:

STATE OF CALIFORNIA)
COUNTY OF TULARE) ss.
CITY OF TULARE)

I, Joseph V. Carlini, City Clerk of the City of Tulare, certify the foregoing is the full and true Resolution 17-05 passed and adopted by the Board of Public Utilities of the City of Tulare at a regular meeting held on June 1, 2017, by the following vote:

Aye(s) _____

Noe(s) _____ Absent _____.

Dated: JOSEPH V CARLINI, CITY CLERK

By Melissa Hermann, Interim Deputy City Clerk

City of Tulare
2017-2022 Projects Budget
SUMMARY OF EXPENSES/FUNDING

PROJECT EXPENSES	FISCAL YEARS					Grand Total
	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	
Admin	\$1,255,000	\$2,349,200	\$1,695,000	\$240,000	\$240,000	\$5,779,200
Information Technology	\$177,000	\$154,000	\$97,000	\$87,000	\$60,000	\$575,000
Parks, Library & Recreation	\$40,000	\$416,450	\$158,550	\$260,000	\$270,000	\$1,145,000
Public Safety	\$548,031	\$320,281	\$300,381	\$280,481	\$270,481	\$1,719,655
Surface Water	\$975,000	\$485,000	\$250,000	\$350,000	\$250,000	\$2,310,000
Transportation	\$13,974,589	\$16,904,941	\$17,891,628	\$16,119,628	\$17,400,777	\$82,291,564
Water	\$9,142,350	\$8,760,350	\$6,502,059	\$4,377,536	\$3,675,000	\$32,457,295
Solid Waste	\$40,000				\$175,500	\$215,500
Sewer/Wastewater	\$2,169,500	\$4,015,000	\$4,605,000	\$1,318,500	\$1,849,500	\$13,957,500
Grand Total	\$28,321,470	\$33,405,222	\$31,499,618	\$23,033,145	\$24,191,258	\$140,450,714

FUNDING SOURCE	FISCAL YEARS					Grand Total
	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	
009 Transit Fixed Route		\$150,000				\$150,000
010 Water Bonds	\$2,579,535	\$2,988,421	\$2,296,390	\$4,634,321	\$5,590,235	\$18,088,903
010 Water Fund - Salaries	\$10,000	\$12,500	\$15,000	\$10,000		\$47,500
010-4611-6003	\$137,000	\$137,000	\$137,000	\$137,000		\$548,000
015 Wastewater Salaries	\$26,500	\$57,500	\$50,000	\$7,500	\$18,500	\$160,000
021 Measure R Local	\$735,085	\$869,331	\$2,795,584	\$1,100,000	\$1,100,000	\$6,600,000
022 GAS TAX	\$3,663,496	\$1,209,411	\$2,787,754	\$2,337,518	\$2,911,714	\$12,909,892
260 DIF Water Supply FAC		\$8,600	\$2,008,600			\$2,017,200
601 Other General Fund CIP	\$532,600	\$587,200	\$544,650	\$550,000	\$550,000	\$2,764,450
603 Technology Fund	\$137,000	\$74,000	\$65,000	\$40,000	\$60,000	\$376,000
610 Water CIP Fund	\$4,258,000	\$3,573,500	\$1,364,291	\$725,000	\$675,000	\$10,595,791
612 Solid Waste CIP	\$564,750	\$500,000	\$522,750		\$170,500	\$1,758,000
615 SEWER/WASTEWATER CIP	\$3,652,942	\$7,783,596	\$9,362,500	\$6,779,429	\$7,020,059	\$34,598,526
623 Equipment Replacement F	\$930,281	\$926,831	\$668,749	\$733,017	\$230,481	\$3,489,359
643 Franchise Fee (Solid Waste	\$100,000	\$100,000	\$100,000	\$100,000	\$100,000	\$500,000
643 General Fund Transportati	\$304,100	\$304,100	\$304,100	\$304,100	\$304,100	\$1,520,500
643 RDA	\$244,479	\$2,447,577	\$1,307,944			\$4,000,000
643 RSTP	\$590,669	\$590,669	\$590,669	\$590,669	\$590,669	\$2,953,345
647 SURFACE WATER CIP	\$2,482,994	\$1,610,905	\$1,461,505	\$1,359,591	\$1,240,000	\$8,154,995
ST0007-0001-0601 (Gas Tax)	\$50,000					\$50,000
077 CDBG	\$390,000					\$390,000
021 Measure R OWP	\$35,000	\$35,000	\$35,000	\$35,000	\$35,000	\$175,000
605 FAA ACIP Grant		\$585,000	\$126,000			\$711,000
610 State Water Grant	\$1,350,000					\$1,350,000
027 Groundwater	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000	\$3,000,000	\$15,000,000
605 State Caltrans Grant		\$29,250	\$6,300			\$35,550
610 State of CA SRF Grant		\$2,000,000				\$2,000,000
690 Parks DIF Fund		\$75,000				\$75,000
077 Redevelopment CDBG	\$390,000	\$390,000	\$390,000	\$390,000	\$390,000	\$1,950,000
230 DIF LOCAL STREETS AND TI	\$1,766,520	\$75,000	\$75,000			\$1,916,520
301 DIF - STORM DRAIN FAC	\$11,408	\$68,370	\$68,370			\$148,148

894 Solid Waste Salaries					\$5,000	\$5,000
250 DIF - STS/Medians/Landscaping		\$125,280	\$125,280			\$250,560
290 DIF - Sewage & Wastewater Facility		\$19,500	\$19,500			\$39,000
643 LTF		\$1,800,000				\$1,800,000
TBD - Cartmill Sewer/Wastewa	\$96,893	\$580,644	\$580,644			\$1,258,181
TBD - Cartmill Water - Benefit I	\$82,217	\$491,038	\$491,038			\$1,064,293
001 Measure I	\$200,000	\$200,000	\$200,000	\$200,000	\$200,000	\$1,000,000
Grand Total	\$28,321,470	\$33,405,222	\$31,499,618	\$23,033,145	\$24,191,258	\$140,450,713

**CITY OF TULARE, CALIFORNIA
BOARD OF PUBLIC UTILITIES COMMISSIONERS
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Public works – Wastewater Division

For Board Meeting of: June 1, 2017

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Authorize the Public Works Director or City Manager to execute a contract amendment to the existing professional services agreement for the purposes of developing and implementing the Ten Year Energy Plan with Hydros Agritech, Inc. of San Francisco, CA in an amount not to exceed \$115,165.00, subject to minor conforming and clarifying changes acceptable to the City Attorney and City Manager.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

In July 2015, the City awarded a professional services contract to Hydros Agritech in the amount of \$75,000 for a three year term for the purpose of developing and implementing a Ten Year Energy Plan. When the scope of the original contract was developed, staff acknowledged a need for the specialized assistance of a consulting firm such as Hydros Agritech in identifying a successful project and moving it forward. At that time, however, it was unclear as to the full range or magnitude of specific duties that may be required of such a consulting firm. This was due in part to not knowing precisely which direction this project would take at that time.

Since the award of the contract, Hydros Agritech has assisted the City in amending the first biomethane utilization request for proposals (RFP) and initiated and provided a baseline energy audit of the wastewater treatment plant's (WWTP) energy utilization which was then incorporated into the RFP addendum. Hydros Agritech has also been critical in assisting staff in evaluating biogas project proposals, mediating negotiations with biogas proposers and interacting with third party agencies relevant to the project proposals such as Southern California Edison and Southern California Gas.

In July 2016, the Board of Public Utilities (BPU) approved a contract change order to the existing contract with Hydros Agritech in an amount not to exceed \$43,000. The purpose of this change order was to continue identifying and implementing changes at the WWTP in advance of any biomethane projects. Other duties included in this change order was to work alongside project proposers to finalize documentation, monitor state and local permitting activities, and utility agreements in order to help bring the projects to fruition in a timely and successful manner.

With this information, staff has approached Hydros Agritech with a more specifically defined scope of work, amending the existing scope of the original contract. In addition to continuing to support the City in evaluating project proposals, Hydros Agritech will be required to produce a Biogas Engineering Process Analysis – an analysis which will inform the city as to optimal methods of managing and increasing biogas production, which will be an important tool in supporting the biogas project selected and implemented. Other duties to note include construction management responsibilities related to the construction of the FCE Natural Gas Fuel Cell and ensuring that the net metering agreement and ResBCT Tarriff do not provide a disruption or interference with the FCE project. The interface of the net metering tariff and the FCE project are critical for laying the ground work which will allow future photo voltaic (solar) projects at the WWTP to be realized.

STAFF RECOMMENDATION:

Authorize the Public Works Director or City Manager to execute a contract amendment to the existing professional services agreement for the purposes of developing and implementing the Ten Year Energy Plan with Hydros Agritech, Inc. of San Francisco, CA in an amount not to exceed \$115,165.00, subject to minor conforming and clarifying changes acceptable to the City Attorney and City Manager.

CITY ATTORNEY REVIEW/COMMENTS: Yes No N/A

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No N/A

FUNDING SOURCE/ACCOUNT NUMBER:

015-4655-2017 Wastewater – Energy Professional & Technical Services

Signed: Joseph V. Carlini

Title: Interim City Manager

Date: June 1, 2017

City Manager Approval: _____

FIRST AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT, ENTITLED "ENGINEERING SERVICES FOR ITS WASTEWATER TREATMENT PLANT" BY AND BETWEEN THE CITY OF TULARE AND HYDROS AGRITECH, INC.

Whereas the City of Tulare desires to implement a 10-Year Energy Plan; and

Whereas the City has a qualified contractor in place that was awarded a contract for such services through the competitive bidding process; and

Whereas that Contractor is Hydros Agritech, Inc.; and

Whereas the Contractor, in its original proposal, identified team members that have the requisite skills and licenses to successfully perform such services; and

Whereas the scope of services and compensation provided for in the original Professional Services Agreement must be amended to include the work specified herein to accomplish the previously identified City goals relating to its Wastewater Treatment Plant; and

Whereas the original Professional Services Agreement to which this Amendment pertains is attached hereto as Exhibit "1,"

Now therefore the parties covenant, represent, and agree as follows:

Section 302 "Description of Consultant Services" shall be amended to include the following additional services and to read as follows:

302. Description of Consultant Services

The Consultant's first task shall be to prepare an assessment of the Facility to include identification of all electric meters, interconnections, service drops, tariffs, and rates. Identification of the major loads on site and associated time of use for those loads. All on site generation will be identified by associated rates, tariffs, nameplate, and in use capacity. Consultant shall make short term suggestions, such as possibly changing the tariff at the Domestic Side of the Plant, suggestions as to how to maximize the use of generating facilities, including the fuel cells, and possible suggestions as to how to best maximize the fuel cells after the existing service contract has expired. The initial goal will be to find short term actions that can save the Facility money.

The Consultant shall also be requested to assist with the evaluation of responses to the Request for Proposals that was issued February 16, 2015, titled "Utilization of biomethane and/or providing low cost electricity" and assist with the preparation of a ten (10) year energy plan. The goal will be to provide electrical reliability for the Facility with the possibility of obtaining excess revenue from the sale of biomethane. The Consultant may also be asked to provide assistance during any subsequent construction of generation facilities.

Additional services to be provided by Consultant:

Owners Representative and Construction Manager Services, including but not limited to:

1. Review of required permits: Building and Environmental
2. Review of construction drawings as appropriate, particularly pad and system interconnections
3. Monitoring construction/delivery schedules and coordinating with plant, as needed
4. The interface of the interconnection and metering of the current and anticipated solar PV project, necessitated because of interaction of net metering tariffs relating to the FCE project. This task is limited to ensuring that the PV interconnect and net metering agreement allows the City to continue using the ResBCT tariff on its current PV system without disruption to, or interference with, the Fuel Cell Energy (FCE) project
5. Ongoing communication with Southern California Edison (SCE) regarding utility interconnection with City staff and FCE
6. Monitoring installation for contract compliance (Exhibit B), compliance with related license provisions, and communication with parties, as needed
7. Monitoring the application to the SJAPCD, as needed. This task is limited to ensuring that FCE applies for and receives a complying permit for its fuel cell and that the City is credited with minimizing its flared gas under its existing flaring permit.
8. Monitoring critical path timeline and activities and identifying issues that may cause delay

Biogas Engineering Process Analysis– Biogas Quality; Quantity and Implications and recommendations for introducing new feedstocks. Including, but not limited to:

1. Perform a process-flow analysis, and related analyses, to create a base line of current WWTP operations.
2. Verify and monitor the quality and volume of the biogas produced by the domestic and industrial system. This task will identify national standards and specific locations at the domestic and industrial plants for the most accurate measurements. The task will also identify the most efficient measurement and monitoring technology/instruments and recommended locations for installation of said technology/instruments. Coordinating activities that are needed to further identify the gas pipeline injection opportunity.
3. Perform a process analysis including mass and heat balances. Recommendations to modify WWTP processes and operations to improve water treatment efficiency and quality, reduce energy use and related costs, and increase biogas production.
4. Create uniform procedures and processes to enable City to add feedstocks to the WWTP digesters, while maintaining optimal efficiencies as described above.

Section 401 of the Agreement shall be amended to state:

401. Compensation

A. Not-to-Exceed Amount

The total compensation that may be paid to the Consultant by the City for complete and satisfactory performance of services under this Agreement shall not exceed one-hundred and fifteen thousand, one-hundred and sixty-five dollars (\$115,165.00) without a written and fully-executed "Second Amendment" to this Agreement

Consultant shall be paid on an hourly basis at the rates listed in Exhibit "A," but prior to being assigned any task, Consultant shall prepare and provide to the City a written estimate/budget of anticipated fees and expenses.

The aforementioned labor rates are inclusive of salary, employee benefits, overhead, profit, general office expenses, administrative services, invoice preparation and processing, routine telecommunications, internet, personal computer, facsimile, routine postage, individual shipping charges of less than ten dollars (\$10.00), incidental copying, on hard copy of deliverables, and one electronic copy of deliverables.

All terms and conditions not expressly altered by this Amendment remain in full force and effect. This Amendment shall remain valid and enforceable by and between the parties only to the extent that a full copy of the original Professional Services Agreement is attached as Exhibit "1." This First Amendment is intended by all parties to be read in context and consistent with the original Agreement.

Approved as to Form:

Goyette & Associates, Inc.
A Professional Law Corporation

By:
Heather N. Phillips
Attorney in and for the City of Tulare

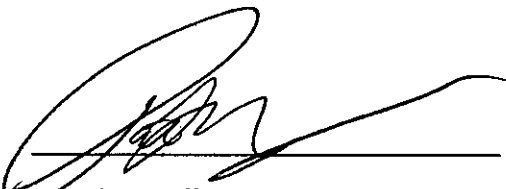
Agreed upon by and between the parties this day of May, 2017.

For the City of Tulare:

Jason Bowling
City of Tulare, Interim Public Works Director

Joseph Carlini
City of Tulare, Interim City Manager

For Hydros Agritech, Inc:



Patrick McLafferty

**CITY OF TULARE
PROFESSIONAL SERVICES AGREEMENT**

Consultant: *Hydros Agritech, Inc.*

Subject: *Engineering Services for its Wastewater
Treatment Plant*

Agreement Number: _____

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AGREEMENT NUMBER _____

BETWEEN

THE CITY OF TULARE
AND
HYDROS AGRITECH, INC.

THIS AGREEMENT is made and entered into by and between the City of Tulare (“City”) and Hydros Agritech, Inc. (hereinafter “Consultant.”) The City and the Consultant are referred to individually under this Agreement as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS the City requires the assistance of an outside engineering firm to assist with its ten (10) year energy plan at the Waste Water Treatment Plant (“Facility”), specific projects, and planning relating to the City’s Facility with an emphasis on the use of biogas, and electrical generation issues.

WHEREAS on February 16, 2015, the City issued and advertised a Request for Proposals (RFP) seeking proposals from qualified firms/organizations to assist with the ten (10) year energy plan and other services as recited above.

WHEREAS, the Director of Public Works evaluated three proposals submitted in response to the RFP and interviewed two engineering firms. One firm withdrew and the Consultant was selected as the most qualified remaining firm.

WHEREAS the Consultant has reviewed the services to be provided by the Consultant incorporated in this Agreement, and represents that it has the qualities, expertise, skills, and abilities to perform such work; and

WHEREAS the services to be performed are of professional services that cannot be performed by current City employees.

NOW THEREFORE, The Parties hereby covenant, represent, and agree as follows:

**ARTICLE I.
INTRODUCTION**

101. Parties to the Agreement

The Parties to this Agreement are:

- A. The City of Tulare (“City”) with its principal location at 411 E Kern Ave, Tulare, CA 93274.
- B. The Consultant, Hydros Agritech, Inc., a corporation, having its corporate headquarters located at 333 1st Street, Suite C, San Francisco, California 94501.

102. Representatives of the Parties and Service of Notices

A. Authorized Representatives

The representatives of the respective Parties authorized to administer this Agreement, including, but not limited to, Task Order and Charge Order Notice approval, and to whom formal notices, demands and communications shall be given are as follows:

- 1. The authorized representatives of the City shall be, unless otherwise stated in the Agreement:

Joseph Carlini
Director of Public Works
3981 K. Street, Tulare, California
Email: jcarlini@ci.tulare.ca.us

- 2. The authorized representatives of the Consultant shall be:

Patrick McLafferty, Principal
Hydrosagritech, Inc.
333 1st Street, Suite C
San Francisco, California 94501
Email: patrickm@hydrosagritech.com

B. Service of Notices

Unless otherwise stated herein, formal notices, demands and communications required hereunder by either Party shall be made in writing and may be effected by personal delivery or by certified mail, overnight carrier, or and shall be deemed communicated as of the date of delivery or the date of mailing.

If the name or address of the person designated to receive notices, demands or communications, is changed, or additional persons are added to receive notices, demands or communications, written notice shall be given, in accord with this section, within five (5) business days of said change.

**ARTICLE II.
TERM OF THE AGREEMENT**

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201. Term of the Agreement

The term of this Agreement shall commence upon execution of this Agreement by all Parties hereto and shall terminate three (3) years thereafter, subject to the termination provisions herein. Performance shall not begin until the Consultant has satisfied the City of insurance required herein and received written approval from the City.

**ARTICLE III
SERVICES TO BE PROVIDED**

301. Services to be Provided by the Consultant

During the term of this Agreement, the Consultant shall provide the services, implement the tasks, as directed by the Director of Public Works. The Director of Public Works shall issue narrow tasks and monitor the work and the cost with the assistance of outside special legal counsel for energy purposes.

302. Description of Consultant Services

The Consultant's first task shall be to prepare an assessment of the Facility to include identification of all electric meters, interconnections, service drops, tariffs, and rates. Identification of the major loads on site and associated time of use for those loads. All on site generation will be identified by associated rates, tariffs, nameplate, and in use capacity. Consultant shall make short term suggestions, such as possibly changing the tariff at the Domestic Side of the Plant, suggestions as to how to maximize the use of generating facilities, including the fuel cells, and possible suggestions as to how to best maximize the fuel cells after the existing service contract has expired. The initial goal will be to find short term actions that can save the Facility money.

The Consultant shall also be requested to assist with the evaluation of responses to the Request for Proposals that was issued February 16, 2015, titled "Utilization of biomethane and/or providing low cost electricity" and assist with the preparation of a ten (10) year energy plan. The goal will be to provide electrical reliability for the Facility with the possibility of obtaining excess revenue from the sale of biomethane. The Consultant may also be asked to provide assistance during any subsequent construction of generation facilities.

A. Warranty of Services

The Consultant shall perform the work and deliver such other items as are necessary to ensure that the services and deliverables provided under this Agreement meet the requirements set forth in this Agreement. The Consultant warrants that its services will be performed in accordance with generally accepted

standards in the industry for a three (3) year period after completion. Consultant makes no other warranties or guarantees, express, implied, statutory or otherwise. Warranties of merchantability and fitness for the particular purpose are consumer warranties that are not applicable to this Agreement.

If any of the Consultants services are found to be deficient within three (3) years following their completion, Consultant will provide the additional services (within the scope of the original services provided) necessary to correct the deficiency at no cost to the City.

B. Licenses and Certifications

The Consultant and its officers, agents, and employees shall obtain and maintain all licenses, permits, certifications and other documents necessary for the Consultant's performance hereunder and shall pay any fees required therefor. Such licenses, permits, certifications shall be specific to the State of California or regional regulatory agencies, as applicable to Consultant's services, work, task, and deliverables pursuant to this Agreement. Consultant agrees to immediately notify the City of any suspension, termination, lapse, non-renewal, or restriction of such licenses, permits, certifications, or other documents.

C. Time is of the Essence

The City and the Consultant understand and agree that "Time is of the Essence" in performance of this Agreement. However, Consultant shall be excused from any delays in performing its services to the extent such delay is caused by occurrences beyond its reasonable control, including but not limited to, acts of God or the public enemy; compliance with any order or request of any governmental authority; fires, floods, explosion, accidents; riots, or strikes; or any causes, whether or not of the same class or kind as those specifically named above, which are not within its reasonable control.

**ARTICLE IV.
COMPENSATION AND METHOD OF PAYMENT**

401. Compensation

A. Not-to-Exceed Amount

The total compensation that may be paid to the Consultant by the City for complete and satisfactory performance of services under this Agreement shall not exceed seventy-five thousand dollars (\$75,0000) without a written amendment to this Agreement.

Consultant shall be paid on an hourly basis at the rates listed in **Exhibit "A"**, but prior to being assigned any task, the Consultant shall prepare a written estimate/budget of anticipated fees and expenses.

C/O

Such labor rates are inclusive of salary, employee benefits, overhead, profit, general office expenses, administrative services, invoice preparation and processing, routine telecommunications, internet, personal computer, facsimile, routine postage, individual shipping charges of less than ten dollars (\$10.00), incidental copying, one hard copy of deliverables, and one electronic copy of deliverables costs.

Overtime shall not be used for any portion of this work.

B Reimbursement of Subconsultant Costs

The City shall reimburse subconsultant expenses at the actual amount paid by the Consultant to the subconsultant, consistent with the subconsultant labor rates established in Exhibit A

The Consultant may invoice for direct services in the management, oversight, and administration of subconsultants. No markup by the Consultant or subconsultant for subconsultant services of any tier shall be allowed.

C Reimbursement of Travel Expenses

Travel expenses necessary to perform required work for the City must be pre-approved by the City. Necessary travel, if any, shall be billed at actual cost with no markup. Lodging and meals will be billed at actual costs without markup and with a copy of all receipts. The City will not reimburse the Consultant for any consumption of alcohol.

Notwithstanding the foregoing, travel time to Tulare shall be billed at forty percent (40%) of the actual time expended.

D Other Reimbursable Expenses

Other reimbursable expenses include purchase of special equipment, necessary field supplies and facilities, testing and laboratory services, individual shipping charges in excess of two hundred and fifty dollars (\$250) materials, supplies.

Any items purchased at the request of the City to accomplish the work shall be charged to the City and shall become the property of the City and shall be delivered to the City upon the expiration and/or termination of this Agreement.

E. Taxes

All costs contained herein are inclusive of any applicable State of California Sales Tax, California Use Taxes or Federal Excise Tax. Such taxes are the only taxes for which the City shall be liable for payment and any such taxes paid by the Consultant for tangible property, if any, to be delivered to the City.

F. Method of Payment

The Consultant shall submit invoices to the City in accordance with **Exhibit "A"** and its estimate. Each invoice shall be accompanied by a statement detailing the services performed, tasks completed and the deliverables provided for which payment is requested, supporting documentation.

G. Required Invoice Information

Invoices shall be submitted by the Consultant to the City in duplicate. The following information shall be included in each invoice submitted by the Consultant:

1. Consultant name and address
2. City Business Tax Registration Number
3. Date of invoice
4. Invoice number
5. Contract number
6. Summary of projects, including amount of current invoice, total invoiced to date, total authorized, percent complete, and percent of authorized cost invoiced to date, and the anticipated end date of the task
7. Taxes
8. Total amount of invoice
9. Description of services and deliverables provided related to each individual Task Order and associated costs
10. Supporting documentation for all costs and expenses, in a format acceptable to the City
11. Following certification statement signed by the Consultant:
"I hereby certify, under penalty of perjury, that the services rendered and billings reflected in this invoice are true, accurate and in conformance with the terms of this Agreement and any applicable prevailing wage laws.
12. Approval signature blocks for City

Invoices shall be submitted to:

Name Joseph Carlini

Organization: Director of Public Works

Address: 3981 K. Street, Tulare, California

Consultant's failure to submit accurate invoices with all required information shall result in rejection of the invoice and non-payment.

H. Timely Invoicing

All charges related to the performance of the Consultant's work or services for any Task Order, including subconsultant and other reimbursable expenses, shall be invoiced by the Consultant to the City within six (6) months of the cost or expenses being incurred by the Consultant or subconsultant. The City shall not reimburse the Consultant for any costs, expenses, work, or services invoiced to the City six (6) months after the work was performed by the consultant or the costs were incurred by the Consultant

402. Errors and Omissions

Notwithstanding any other provisions of this Agreement, approval by the City of any task or deliverable, or any part thereof, shall not relieve the Consultant of the responsibility to meet all of the requirements as set forth in this Agreement. The Consultant shall have no claim for additional costs due to correction of its errors or omissions in said previously approved deliverables or any other action that may be necessary to comply with this Agreement and authorized Task Orders.

Revising Consultant-prepared designs at the request of the City to incorporate comments or recommendations by the City is not considered to be a remedy of errors or omissions, but is considered an integral part of engineering and which may be called for by this Agreement.

403. Industry Standard of Care

The Consultant shall perform the work described herein in accordance with industry standards of care and shall reflect competent professional knowledge and judgment.

404. Safety and Non-Interference

When visiting the Facility, the City shall or already has advised the Consultant of appropriate safety and security rules. The Consultant shall adhere to the restrictions and instructions of City personnel when visiting any facility.

The Consultant's performance of the work under this Agreement shall not interfere unnecessarily with the operation of the City or any City department.

**ARTICLE V.
PERSONNEL AND CONSULTANTS**

501. Consultant Personnel

A. Key Consultant Personnel

The City considers the services of the Consultant's key personnel essential to the Consultant's performance under this Agreement. The Consultant shall not reassign any key personnel without the City's prior written consent. The City shall have the right to approve or disapprove the reassignment of Consultant key personnel for any reason at its sole discretion.

B. Unavailability of Key Personnel

In the event individual key personnel are terminated either by the Consultant or the individual, with or without cause, or if individual key personnel are otherwise unavailable to perform services for the Consultant, the Consultant shall provide to the City written notification detailing the circumstances of the unavailability of the individual key personnel and designating replacement personnel prior to the effective date of individual key personnel termination or unavailability date, to the maximum extent feasible, but no later than five (5) business days after the effective date of the individual key personnel termination or unavailability. The Consultant shall propose replacement personnel that have a level of experience and expertise equivalent to the unavailable individual key personnel for the City to reasonably review and approval.

C. Removal of Consultant Personnel

The Consultant agrees to remove personnel from performing work under this Agreement if reasonably requested to do so by the City within twenty-four (24) hours or as soon thereafter as is practicable

D. Prohibition Against Assignment or Delegation

The Consultant may not, unless it has first obtained the written permission of the City, such permission may be withheld at the City's sole discretion for any reason or no reason at all since the award of this Agreement was based upon the personal services to be provided by the Consultant

- (a) Assign or otherwise alienate any of its rights hereunder, including the right to payment; or
- (b) Delegate, subcontract, or otherwise transfer any of its duties hereunder. Notwithstanding the foregoing, the Consultant may subcontract with any subconsultant identified in its response to the City's RFP for Engineering services dated February 16, 2015, shall remain primarily liable for all of the work of the subcontractor.

**ARTICLE VI.
OWNERSHIP**

601. Ownership Rights

It is understood and agreed that the deliverables are being developed by the Consultant for the sole and exclusive use of the City and that the City shall be deemed the sole and exclusive owner of all right, title, and interest therein, including all copyright and proprietary rights relating thereto. All work performed by the Consultant on deliverables and any supporting documentation therefore shall be considered as "Works-Made-for-Hire" (as such are defined under the U.S. Copyright Laws and international treaties) and, as such, shall be owned by and for the benefit of the City. The City owns any and all trademarks, patents, copyrights, and any other intellectual property rights for any and all deliverables generated as a result of this Agreement, regardless of the state of completion of said deliverables.

In the event it should be determined that any of such deliverables or supporting documentation, or parts thereof, do not qualify as a "Works-Made-for-Hire" the Consultant shall and hereby does transfer and assign to the City for no additional consideration, all right, title, and interest that it may possess in such deliverables and documentation including, but not limited to, all copyrights to the work and all rights comprised therein, and all proprietary rights relating thereto. Upon request, the Consultant shall take such steps as are reasonably necessary to enable the City to record such assignment.

Notwithstanding the foregoing, the Consultant shall retain intellectual property rights in all pre-existing documents, data, software, and other intellectual property which may be used or relied upon in preparing the original works delivered under this Agreement. This

is not a software development agreement, and the City will not acquire any right or interest in any computer software.

602. Use of Deliverables

The City has the right to use or not use the deliverables and to use, reproduce, re-use, alter, modify, edit, or change the deliverables as it sees fit and for any purpose. If the City determines that a deliverable, or any part thereof, requires correction prior to City approval, the City has the absolute right to use the deliverable until such time as the Consultant can remedy the identified deficiency.

Due to liability concerns and because the original works prepared under this contract are intended solely as an evaluation tool without regard for any securities laws, the Consultant expressly states that the original works prepared under this Agreement are not intended for publication, promotion, or advertisement, and should not be relied upon by third parties including financial institutions, investors or the general public for any purposes whatsoever. Any publication of the original works under the Agreement shall be at the sole risk and liability of the City.

603. Warranty Against Infringement

The Consultant warrants that the performance of the services by the Consultant pursuant to this Agreement, shall not in any manner constitute an infringement or other violation of any trademark, copyright, patent and/or trade secret of any third party.

ARTICLE VII. CONFIDENTIALITY AND RESTRICTIONS ON DISCLOSURE

701. Confidentiality

A. Confidential Information

All documents, records, and information provided by the City to the Consultant, or accessed or reviewed by the Consultant, during performance of this Agreement shall remain the property of the City. All documents, records and information provided by the City to the Consultant which are marked or referenced as confidential during a review of records are confidential records of the City. Any customer records that may be reviewed are confidential information regardless of whether or not they are marked confidential.

Confidential information shall not include information or data which (1) was known by the Consultant prior to disclosure by the City; (2) is subsequently acquired by us from a third party who is not under an obligation of confidentiality

to you; (3) is developed independently without reference to or reliance upon the City's confidential information; (4) is or becomes available to the public; or (5) is required to be disclosed by operation or law.

The Consultant agrees not to provide confidential documents and records, nor disclose their content or any information contained in them, either orally or in writing, to any other person or entity. The Consultant agrees that all documents, records, or other information used or reviewed in connection with the Consultant's work for the City shall be used only for the purpose of carrying out City business and cannot be used for any other purpose. The Consultant shall be responsible for protecting the confidentiality and maintaining the security of City documents, records, and information in its possession. Nothing in this clause shall preclude or restrict the Consultant from using or utilizing the experience, know-how, or expertise gained while working for the City.

B. Public Records Requests and the Brown Act

Consultant acknowledges that the City of Tulare is a municipality subject to the requirements of the Brown Act and the California Public Records Act ("CPRA") and may be required to disclose certain information regarding this contract and work performed under this contract to the public as part of its approval and legislative process. If the City receives a request for information concerning this Contract or any correspondence, work product, analysis hereunder between the parties under the CPRA, The City will notify the Consultant prior to the date of the required disclosure as to the nature of the request or requirement and the City's interpretation of the applicable disclosure requirements. The Consultant will have the sole obligation at its sole expense to seek a protective order or other appropriate remedy to prevent disclosure."

702. Document Access/Control

The Consultant shall document and immediately report to the City files, confidential information, documents, or records provided by the City that are reviewed during work on this Agreement.

703. Work Product and Deliverable Confidentiality

Any reports, findings, deliverables, analyses, studies, notes, information or data generated as a result of this Agreement shall not be made available by the Consultant to any individual, agency, or organization except as provided for in this Agreement or as required by law. Notwithstanding the foregoing, the Consultant may reference its work under this Agreement in general terms in presentations and proposals, provided that in doing so, the Consultant does not disclose any non-public information.

**ARTICLE VIII.
TERMINATION AND SUSPENSION**

801. Termination for Convenience

- A. The City may terminate this Agreement, or any part hereof, for its convenience for any reason or no reason at all, upon giving at least thirty (30) calendar days written notice to the Consultant prior to the effective date of such termination, which date shall be specified in such notice. The Consultant cannot terminate this Agreement, except for cause, because of the economic damage that it would cause to the City if the Consultant terminated the Agreement in the middle of a task.

- B. After receipt of a notice of termination and except as otherwise directed by the City, the Consultant shall:
 - 1. Stop work under the Agreement on the termination effective date and to the extent specified in the notice of termination.

 - 2. Deliver to the City, within ten (10) calendar days after termination, any and all data, reports, other documents, and deliverables, or portions thereof, if any, prepared pursuant to this Agreement, but not already delivered.

- C. The amount due Consultant by reason of termination for the City's convenience shall be determined as follows:
 - 1. The Consultant shall be paid on the basis of work completed based upon the hourly rates provided in **Exhibit "A"** pursuant to an invoice by the Consultant.

802. Termination for Cause

- A. The City and/or Consultant may terminate this Agreement for cause by giving the written notice of breach. The defaulting party shall have ten (10) calendar days from the date of the notice of breach to cure, or diligently commence to cure such breach. The notice of breach shall be sufficiently detailed so that the Parties can meet and discuss the notice of the breach. Such meeting shall be scheduled within ten (10) calendar days of the date of the notice of breach. If the defaulting party is unable or unwilling to cure, or diligently commence to cure, such breach, or meet within the ten (10) day timeframe, the other Party may terminate this Agreement anytime thereafter upon providing written notice.

- B. If this Agreement is terminated for cause, the City shall pay for the accepted deliverables, less the amount of any damages incurred as a result of the Consultant's failure to perform its responsibilities under this Agreement.

803. Suspension of Work

The City may orally direct the Consultant to suspend, and to subsequently resume performance of all or any of the work. Such direction shall be confirmed in writing and payment shall be made to the Consultant as if there had been a termination for convenience as detailed above.

ARTICLE IX. INSURANCE

901. Insurance Coverages

During the term of this Contract, the Consultant shall maintain at the Consultant's sole expense, the following insurance:

Minimum Scope of Insurance:

A. General Liability

\$2,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number GL 00 02. (Ed. 1/73) covering Comprehensive General Liability and Insurance Services Office form number GL 04 04 03 81 covering Broad Form Comprehensive General Liability-, or Insurance Services Office Commercial General Liability coverage, "occurrence" form CG 00 01 11 85. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location, endorsement CG 25 03 11 85 or CG 25 04 11 85, or the general aggregate limit shall be twice the required occurrence limit.

B. Automobile Liability

\$1,000,000 combined single limit per accident for bodily injury and property damage. Coverage shall be at least as broad as Insurance Services Office form number CA 00 01 01 87, covering Automobile Liability, codes 8 (hired) and 9 (nonowned) and endorsement CA 00 25 (Ed. 01 86).

C. Workers' Compensation and Employers Liability

Workers' compensation limits as required by the Labor Code of the State of California.

D. Professional Liability, and Errors and Omissions Insurance

With a limit not less than \$1,000,000 per claim.

E. Deductibles and Self-Insured Retention

Any deductibles or self-insured retention must be declared to and approved by the City. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retention as respects the City, its officers, officials, employees and volunteers; or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

F. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability, Automobile Liability, and Professional Liability Coverage
2. The City, its officers, officials, employees and volunteers are to be covered as insured, endorsements [GL 20 11 07 66, CG2010 1185 and/or CA 20 01 (Ed. 01 78)], as respects liability arising out of activities performed by or on behalf of the Consultant, products and completed operations of the Consultant, premises owned, occupied or used by the Consultant, or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.
3. The Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
4. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officers, officials, employees or volunteers. The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the Insurers Liability.
5. The Consultant may satisfy the requirements in a single policy or multiple policies. Any such additional policies written as excess insurance shall not provide any less coverage than that provided by

the first or primary policy.

G. Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the City, its officials, officers, employees and volunteers for damages from work performed by the Consultant for the City.

H. All Coverages

Each insurance policy required by this contract shall be endorsed to state that coverage shall not be suspended, voided; canceled by either party; reduced in coverage or in limits except after thirty (30) days prior, written notice by certified mail, return receipt requested, has been given to the City.

I. Acceptability of Insurers

All insurance is to be placed with insurers with a Bests rating of no less than A:VII, and who are admitted Insurers in the State of California.

J. Verification of Coverage

The Consultant shall furnish the City with certificates of insurance and with original endorsements effecting coverage required by the City for themselves prior to commencing work or within fourteen (14) days of notification of award of contract; whichever is shorter. The certificates and endorsements for insurance policy are to be by a person authorized by that insurer to bind coverage on its behalf. Certificates and endorsements are to be approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, at any time.

K. Submittal of Certificates

Consultant shall submit as required certificates and endorsements to the following:

Roxanne Yoder
Chief Deputy City Clerk
411 E Kern Ave. Tulare, CA 93274

ARTICLE X. INDEMNIFICATION

1001. Indemnification

Except for the gross negligence or willful misconduct of the City, the Consultant undertakes and agrees to defend, indemnify and hold harmless the City including but not limited to any of its boards, commissioners, officers, agents, employees, assigns and successors in interest (hereinafter, collectively, "Indemnitees") from and against any and all suits and causes of action, claims, losses, demands, penalties, judgments, costs, expenses and disbursements of any kind or nature whatsoever, including but not limited to attorney's fees (including allocated costs of internal counsel) and costs of litigation, damage, obligation or liability of any kind or nature whatsoever, in any manner arising by reason of, incident to, or connected in any manner to performance, non-performance or breach of this Agreement or any other act or omission by or of the Consultant or Consultant's officers, employees, agents or subconsultants of any tier, including but not limited to any such act or omission that results in death or injury to any person, including but not limited to Consultant, Consultant's officers, employees, agents, and subconsultants of any tier, or damage or destruction to property of any kind, of either Party hereto, or of third Parties, or loss of use (hereinafter, collectively, "Indemnified Liabilities"). The provisions of this paragraph shall survive expiration or termination of this Agreement, and shall be in addition to, and not exclusive of, any other rights or remedies which Indemnitees have at law, in equity, under this Agreement or otherwise. To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this subsection may be unenforceable in whole or in part because they are violative of any law or public policy, Consultant shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

1002. Infringement of Intellectual Property Rights

Consultant will defend at its expense and hold harmless in any infringement claim, demand, proceeding, suit or action ("Action" hereinafter) against the City, its officers, directors, agents, employees, or affiliates for any infringement or violation, actual or alleged, direct or contributory, intentional or otherwise, of any intellectual property rights, including patents, copyrights, trade secrets, trade marks, service marks, and other proprietary information or rights (collectively "Intellectual Property Rights" hereinafter), (1) on or in any design, medium, matter, plant, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by the Consultant in the construction of the work pursuant to the work product provided in this Agreement; or (2) as a result of the City's actual or intended use of any product furnished by Consultant (herein after "Consultant Product"). Consultant Product herein includes, without limitation, any hardware, software, firmware, equipment, device, instrumentation, design, medium, matter, plant, article, process, method, and application.

Consultant also shall indemnify the City against any loss, cost, expense, liability, and damages finally awarded against the City for settlement as a consequence of such Action.

**ARTICLE XI.
MISCELLANEOUS**

1101. Construction of Provisions and Titles Herein

All titles or subtitles appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly against the City or the Consultant.

1102. No Third Party Beneficiaries

This Agreement is intended only for the benefit of the Parties hereto and does not, nor shall be interpreted to create any rights in any person or corporation that is not a Party to this Agreement.

1103. Export Laws

The U.S. Government prohibits U.S. companies or their subsidiaries from exporting, re-export, or transshipping information, services, or technology to certain embargoed or sanctioned countries. Therefore, the City agrees not to export, re-export, or transship any of the work product provided by the Consultant, to any embargoed or sanctioned country, or alternatively to obtain all necessary approvals and licenses from the U.S. Government for such export, re-export or transshipment.

1104. Independent Consultant

The Consultant is acting hereunder as an independent contractor and not as an agent or employee of the City, and all of the terms and conditions of this Agreement shall be interpreted in light of that relationship. The Consultant, including Consultant's subconsultants, suppliers, employees, and agents, shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of the City for any purpose whatsoever. The Consultant shall not be entitled to any City benefits, including but not limited to, vacation, sick leave, Workers' Compensation, or pension.

1105. Conflict of Interest

Consultant will not accept any employment during the term of the Agreement from any other party if such employment is, could represent, or could lead to a conflict of interest between the City, Consultant, or the other party.

1106. Choice of Law, Venue, and Attorneys' Fees

This agreement shall be interpreted and governed in all respects by the laws of the State of California, with venue for any dispute in Tulare, California regardless of its conflicts of laws principles.

In any action to enforce the terms of this Agreement, each Party shall be responsible for its own attorneys' fees and costs.

1107. Subcontractors

This Agreement does not contemplate the use of subcontractors, except as listed in the Consultant's response to the City's RFP for Engineering services dated February 16, 2015. If any subcontractors are retained by the Consultant, the subcontract entered into pursuant to the terms of this Agreement shall be subject to, and shall incorporate and all of the terms and provisions of this Agreement. However, this Agreement is intended only for the benefit of the Parties and does not nor shall it be interpreted to create any rights in any person or corporation that is not a party to this Agreement, including but not limited to the subcontractor.

1108. Entire Agreement and Amendments

This Agreement constitutes the entire agreement between the parties. This Agreement supersedes all prior negotiation, discussions and agreements between the parties concerning the subject matters covered herein. The parties intend this Agreement to be the final expression of their agreement with respect to the subjects covered herein and a complete and exclusive statement of such terms.

All amendments shall be in writing and signed on behalf of both Parties by the persons authorized to bind the Parties hereto. Any purported oral amendment to this Agreement shall have no effect.

1109. Waiver

Failure of either party to enforce any provision of this Agreement shall not constitute a waiver of the right to compel enforcement of the same provision or any remaining provisions of this Agreement.

1110. Severability

Each and every section of this Agreement shall be construed as a separate and independent covenant and agreement. If any term or provision of this Agreement or the application thereof to certain circumstances shall be declared invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to circumstances other than those to which it is declared invalid or unenforceable, shall not

be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

1111. Order of Precedence

The documents referenced below represent the Contract Documents. Where any conflicts exist between the General Terms and Conditions, or addenda attached; then the governing order of precedence shall be as follows:

1. Amendments to the RFP/Contract
2. City Request for Proposal, including the fully executed contract.

1112. Federal State and Local Laws

The Consultant shall comply with all applicable federal, state, and local laws, rules, and regulations, including, but not limited to prevailing wage laws, if applicable.

1113. Drug-Free Workplace Requirements

The Consultant and all subcontractors, if any, shall comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code Sections 8350 et seq.).

1114. Retention and Access to Records

At all reasonable times during the term of this contract and for a minimum of three (3) years after its termination, the City, and any designated representative shall have access to all records related to work performed under this contract shall make such records available for inspection, audit, copying excepts and transcriptions

1115. Americans with Disabilities

The Consultant shall comply with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.) which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA.

1116. Survival of Provisions

The provisions of Articles VI, VII and X, shall survive for a period of one year after the termination and/or expiration of this Agreement.

1117. Representations of Persons Executing this Agreement

The persons executing this Agreement warrant that they are duly authorized to execute this Agreement on behalf of and bind the parties each purports to represent.

1118. Counterparts

This Agreement may be executed in one (1) or more counterparts, each of which will constitute an original.

1119. Represented by Counsel

Each Party acknowledges that it was represented by counsel in the negotiation and execution of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

CITY OF TULARE

Dated: _____

By: _____
Printed Name: _____
Title: _____

HYDROS AGRITECH, INC.

(Two company executive signatures are required.)

Dated: _____

By: *Christopher B. Ott*
Printed Name: CHRISTOPHER B. OTT
Title: PRESIDENT

Dated: 6/26/15

By: *Patrick McLooney*
Printed Name: Patrick McLooney
Title: Principal
for Hydros Agritech, Inc.

EXHIBIT "A"

Consultant Hourly Labor Rates

Principal Consultant	\$175.00
Principal Engineer	\$175.00
Senior Consultant	\$135.00
Senior Engineer	\$145.00
Assoc. Engineer	\$125.00
Asst. Engineer	\$ 65.00
Senior Rate Analyst	\$145.00
Surveyor/Draftsman	\$ 85.00

**CITY OF TULARE, CALIFORNIA
BOARD OF PUBLIC UTILITIES COMMISSIONERS
AGENDA ITEM TRANSMITTAL SHEET**

Submitting Department: Community Development / Project Management

For Board Meeting of: June 1, 2017

Documents Attached: Ordinance Resolution Staff Report Other None

AGENDA ITEM:

Award a contract for drilling of an estimated five (5) test wells associated with project WT0025 to Johnson Drilling Co. of Reedley, CA in the amount of \$626,000.00, and authorize the City Manager to approve contract change orders in an amount not to exceed 10% (\$62,600) of the contract award amount.

IS PUBLIC HEARING REQUIRED: Yes No

BACKGROUND/EXPLANATION:

Request for Bids No. 17-596 for the construction of an estimated ten (10) test wells was issued on August 30, 2016. Bids were requested to evaluate the planned production well sites and to provide information for detailed design of those production wells. Before designing and constructing a production well, the City needs to verify the suitability of the sites through analysis of a test well. Per the Carollo Technical Memorandum, staff plans to construct seven (7) wells over the next 5 years. As well sites are identified, the costs associated with each well site will be charged to the individual projects.

On October 6, 2016, six (6) bids were opened for the subject contract. The bids ranged in cost from \$1,020,410 to \$1,750,000. The bids were evaluated to determine if they were responsive to the requirements and instructions contained in the bid documents. It was determined that Leon Ross Drilling of Visalia, CA submitted the lowest responsive bid in the amount of \$1,020,410. The bid was awarded to Leon Ross Drilling at the October 20, 2016 Board of Public Utilities meeting. Bid opening results are attached.

Since the award of bid, Leon Ross Drilling completed five of the anticipated 10 test wells. On May 11, 2017, the City terminated the contract with Leon Ross Drilling, LLC due to on-going concerns regarding the company's ability to reach the required depth of 900 feet for the test wells. Below is a summary of the completed test wells and the achieved depths:

<u>Test well</u>	<u>address</u>	<u>depth reached</u>
Test well #1	333 S. I Street	900 feet
Test well #2	1258 N. J Street	770 feet
Test well #3	820 Wright Way	860 feet
Test well #4	Cartmill & Mooney	605 feet
Test well #5	Alpine & Nelder Grove	607 feet

With the termination of the contract with Leon Ross Drilling, staff is requesting to award the bid for the estimated remaining five (5) test wells to the next lowest responsive bidder, Johnson Drilling Co. of Reedley, CA. Johnson Drilling possesses a current and active C57 Well Drilling Contractor's License issued by the State of California.

The original bid from Johnson Drilling Co. was \$115,600 per test well. To be consistent with a change order issued to Leon Ross Drilling, staff is proposing to award the bid with that change order included in the award amount. The original bid was scoped with 200 feet of 8-5/8" casing, with the remainder of the casing to be driven at 6-5/8". After we started the first well, the hydrogeologist, Ken Schmidt, caught the error and requested that we have the test well driller go as far as they can with the 8-5/8" casing before they start driving the 6-5/8" casing. For the test wells that have already been completed, the driller was able to drive the 8-5/8" casing to between 400-500 feet. Through a change order, we agreed to pay Leon Ross Drilling for the additional 8-5/8" casing at the price per foot quoted in the bid spec. Staff is proposing to proceed with these test wells in the same manner, therefore the proposed award amount to Johnson Drilling includes an additional 200 feet of 8-5/8" casing.

Due to the complexity of drilling 900 feet per well and the unknown of what may be underground, a 10% contingency has been budgeted to cover potential unforeseen conditions. As well sites are identified, staff will bring the individual projects back to the Board for approval of the project budget.

STAFF RECOMMENDATION:

Award a contract for drilling of an estimated five (5) test wells associated with project WT0025 to Johnson Drilling Co. of Reedley, CA in the amount of \$626,000.00, and authorize the City Manager to approve contract change orders in an amount not to exceed 10% (\$62,600) of the contract award amount.

CITY ATTORNEY REVIEW/COMMENTS: Yes No

IS ADDITIONAL (NON-BUDGETED) FUNDING REQUIRED: Yes No
(If yes, please submit required budget appropriation request)

FUNDING SOURCE/ACCOUNT NUMBER:

610 – Water CIP Fund (Water Rates)

Signed: Trisha Whitfield

Title: Project Manager

Date: May 22, 2017

City Manager Approval: _____

BID SUMMARY									
TEST WELLS, Project WT0025				BID OPENING: October 6, 2016 @ 2:00 PM					
				Leon Ross Drilling, LLC 1134 E. Douglas Ave. Visalia, CA 93292 (435) 722-4469 Office (435) 722-3619 Fax		Johnson Drilling Co. 23489 E. Kings Canyon Reedley, CA 93654 (559) 787-2888 Office (559) 787-2139 Fax		Cascade Drilling 3000 Duluth Street West Sacramento, CA 95691 (916) 638-1169 Office (916) 638-5611 Fax	
				UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL
ITEM	DESCRIPTION	QTY.	UNITS	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL
TEST WELLS (per well):									
1	Mobilization (not to exceed \$10,000)	1	LS	\$5,500.00	\$5,500.00	\$6,000.00	\$6,000.00	\$10,000.00	\$10,000.00
2	Test well bore hole	900	VF	\$69.00	\$62,100.00	\$50.00	\$45,000.00	\$47.00	\$42,300.00
3	Test well casing, 8-5/8 inch	200	VF	\$11.90	\$2,380.00	\$48.00	\$9,600.00	\$46.00	\$9,200.00
4	Test well casing, 6-5/8 inch	900	VF	\$10.10	\$9,090.00	\$40.00	\$36,000.00	\$46.00	\$41,400.00
5	Airlifted water samples	10	EA	\$250.00	\$2,500.00	\$250.00	\$2,500.00	\$200.00	\$2,000.00
6	Pumped water samples	3	EA	\$1,157.00	\$3,471.00	\$2,500.00	\$7,500.00	\$2,500.00	\$7,500.00
7	Well miscellaneous items	1	LS	\$8,500.00	\$8,500.00	\$0.00	\$0.00	\$4,500.00	\$4,500.00
8	Well destruction	900	VF	\$8,500.00	\$8,500.00	\$9,000.00	\$9,000.00	\$8.00	\$7,200.00
Sub-Total Sum of Bid (Items 1 through 8)					\$102,041.00		\$115,600.00		\$124,100.00
TOTAL PROJECT BID (10 TEST WELLS):					\$1,020,410.00		\$1,156,000.00		\$1,241,000.00

BID SUMMARY									
TEST WELLS, Project WT0025				BID OPENING: October 6, 2016 @ 2:00 PM					
				Nor-Cal Pump & Well Drilling 1325 Barry Rd. Yuba City, CA 95993 (530) 674-5861 Office (530) 674-1525 Fax		Yellow Jacket Drilling P.O. Box 801 Gilbert, AZ 85299 (602) 453-3252 Office (602) 453-3258 Fax		KP Ventures Well Drilling & Pump Co. LLC 4715 Old Highway 279 Camp Verde, AZ 86322 (928) 639-1709 Office (928) 634-9336 Fax	
				UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL
ITEM	DESCRIPTION	QTY.	UNITS	UNIT COST	TOTAL	UNIT COST	TOTAL	UNIT COST	TOTAL
TEST WELLS (per well):									
1	Mobilization (not to exceed \$10,000)	1	LS	\$8,230.00	\$8,230.00	\$10,000.00	\$10,000.00		Bid
2	Test well bore hole	900	VF	\$100.00	\$90,000.00	\$90.00	\$81,000.00		deemed
3	Test well casing, 8-5/8 inch	200	VF	\$20.00	\$4,000.00	\$1.00	\$200.00		non-
4	Test well casing, 6-5/8 inch	900	VF	\$16.00	\$14,400.00	\$1.00	\$900.00		responsive
5	Airlifted water samples	10	EA	\$1,500.00	\$15,000.00	\$400.00	\$4,000.00		
6	Pumped water samples	3	EA	\$3,850.00	\$11,550.00	\$9,100.00	\$27,300.00		
7	Well miscellaneous items	1	LS	\$5,240.00	\$5,240.00	\$34,500.00	\$34,500.00		
8	Well destruction	900	VF	\$10.00	\$9,000.00	\$19.00	\$17,100.00		
Sub-Total Sum of Bid (Items 1 through 8)					\$157,420.00		\$175,000.00		
TOTAL PROJECT BID (10 TEST WELLS):					\$1,574,200.00		\$1,750,000.00		

**PROJECT AGREEMENT
TEST WELLS**

(City of Tulare Bid No. 17-596)

This Agreement, entered into and effective this _____ day of _____, 2017 [“Effective Date”], by and between the City of Tulare, hereinafter referred to as the “CITY”, and _____ hereinafter referred to as the “CONTRACTOR”, “BIDDER”, or “SUBRECIPIENT”.

RECITALS

WHEREAS, CONTRACTOR is an _____(insert individual or entity type) with a primary business address of _____ and SSN or EIN: _____; and

WHEREAS, CITY is a municipal corporation and Charter Law City; and

WHEREAS, CITY desires completion of the _____ Project, which was let to bid on _____ as evidenced by Bid No. _____(the “Project”); and

WHEREAS, City of Tulare reviewed and evaluated responses to the Bid and determined to award a contract to CONTRACTOR for the Project; and

WHEREAS, CONTRACTOR represents it is licensed, qualified and willing to complete the Project pursuant to terms and conditions of this Agreement.

NOW, THEREFORE, CITY and CONTRACTOR agree as follows:

1. TERM:

The term of this Agreement shall commence on the Effective Date and expire upon completion of all obligations of the parties, unless earlier terminated by the parties. The indemnification and defense provisions shall survive expiration and termination. Suspension or termination of this Agreement may occur if CONTRACTOR materially fails to comply with any term of the award. Additionally, this Agreement may be terminated for convenience. In the event of termination or expiration of this Agreement, CONTRACTOR shall transfer to CITY any funds and/or accounts receivable on hand attributable to the use of CITY funds.

2. ATTACHMENTS INCORPORATED:

The following are attachments for this Agreement. Said attachments are incorporated into this Agreement as if included in full in the body:

ATTACHMENT NO.	DESCRIPTION OF ATTACHMENT
Attachment 1	General Contract Provisions
Attachment 2	Insurance Requirements
Attachment 3	City of Tulare Bid 17-596, Test Wells
Attachment 4	CONTRACTOR’s proposal in response to Bid No. 17-596

3. CONTRACTOR SCOPE OF SERVICES and COMMITMENTS*:

CONTRACTOR shall provide the following services for the stated compensation on or before the stated completion dates (“Scope of Services”):

All work described in Scope of Services in Bid No. 17-596, (“Attachment 3”).

4. CITY COMMITMENTS:

CITY shall perform the following tasks on or before the stated completion dates:

TASK	COMPLETION DATE
Pay Contractor as work is completed and invoiced	As requested by Contractor

5. COMPENSATION:

CITY shall pay CONTRACTOR compensation for services as indicated in Paragraph 4 above; however, CITY shall pay not more than the following amount as total compensation under this Agreement, unless otherwise agreed in writing. Such sum shall be expended and paid by CITY on a reimbursement basis for services actually performed based on invoices, receipts, time sheets and similar documents presented by CONTRACTOR to CITY.

Total Compensation:	\$
Source of Funds:	Local Revenues
Payment Schedule:	As invoices are received, less 5% retention until 35 days after work is completed and accepted by CITY as evidenced by the recordation of a Notice of Completion.

IN WITNESS WHEREOF, this Agreement is executed on the day and year first above written.

CONTRACTOR

Dated: _____

By: _____

Authorized Officer: I certify under penalty of perjury under the laws of the State of California that I am fully authorized to execute this Agreement for CONTRACTOR in the capacity I have stated, and that such execution is sufficient to bind the CONTRACTOR.

CITY OF TULARE

Dated: _____

By: _____
City Manager

Dated: _____

By: _____
City Attorney

Attachment 1
GENERAL CONTRACT PROVISIONS

- A. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties.
- B. Prohibition of Assignment: Neither party shall assign, delegate or transfer their rights and duties in this Agreement without the written consent of the other party.
- C. Notices: Notice shall be sufficient hereunder if personally served upon the City Clerk of the CITY or an officer or principal of the CONTRACTOR, or if sent via the United States Postal Service, postage prepaid, addressed as follows:

CITY OF TULARE
411 E. Kern Ave.
Tulare, CA 93274
Attention: City Clerk

CONTRACTOR

Attention: _____

- D. Independent Contractor: It is understood and agreed by the parties herein that CONTRACTOR, in the performance of this Agreement, shall act as an independent contractor, and therefore shall obtain no rights to any fringe benefits that accrue to regular full-time CITY employees.
- E. Jurisdiction/Venue/Waiver Of Removal: This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in California. Any action brought to interpret or enforce this Agreement, or any of the terms or conditions hereof, shall be brought in Tulare County, California. The CONTRACTOR hereby expressly waives any right to remove any action to a county other than Tulare County as permitted pursuant to Section 394 of the California Code of Civil Procedure.
- F. Integration/Modification: This Agreement and each of the documents and exhibits or attachments referenced herein, which are incorporated by reference, represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by the parties, unless otherwise explicitly authorized.
- G. Conflict With Law: If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said law, but the remainder of the Agreement shall be in full force and effect.
- H. Indemnification: The CONTRACTOR waives any and all claims and recourse against the CITY, including the right of contribution of loss or damage to person or property arising from, growing out of, or in any way connected with or incidental to the CONTRACTOR's performance of this Agreement, except claims arising from the concurrent or sole negligence of the CITY or its officers, agents v o l u n t e e r s or employees. The CONTRACTOR will indemnify, hold harmless, and defend (at CITY's option) the CITY against any and all claims, demands, damages, costs, expenses, or liability arising out of the CONTRACTOR's performance of this Agreement except for liability arising out of the concurrent or sole negligence of the CITY or its officers, agents, volunteers or employees.
- I. Guarantees and Warranties:
 - 1. IN GENERAL: All guarantees and warranties specifically called for by the specifications and/or this Agreement shall expressly run to the benefit of the CITY.

2. ONE YEAR GUARANTEE: Besides guarantees required elsewhere, CONTRACTOR shall and hereby does guarantee the project work for a period of one year after the date of acceptance by CITY.
3. WARRANTIES: Warranties required by the Invitation to Bid or this Agreement shall commence on the date of acceptance of the work by CITY, unless otherwise provided in a Certificate of Substantial Completion.

CONTRACTOR warrants that the materials and equipment furnished under the Agreement will be new and of recent manufacturer unless otherwise specified, and that all work will be of good quality, free from faults and defects, and in conformance with the Agreement. Work that does not conform may be considered defective. This warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the CONTRACTOR, improper or insufficient maintenance, improper operation, or normal wear and tear under normal usage.

CONTRACTOR warrants that title to all work covered by an application for payment will pass to the CITY either by incorporation in the construction or upon the receipt of payment by the CONTRACTOR, whichever occurs first, free and clear of all liens.

CONTRACTOR warrants and guarantees that title to all work, materials, and equipment covered by any application for payment, whether incorporated in the project or not, will pass to CITY no later than the time of payment free and clear of all liens.

No materials or supplies for the project shall be purchased by the CONTRACTOR or SUBCONTRACTOR subject to any mortgage or under a condition of sale contract or other agreement by which an interest is retained by the seller. CONTRACTOR warrants that it has good title to all materials and supplies used by it in the project, free from all liens.

CONTRACTOR shall indemnify and hold CITY harmless from all claims growing out of the lawful demands of SUBCONTRACTORS, laborers, workers, mechanics, material persons, and furnishers of machinery and parts thereof, equipment, power tools, and all supplies, incurred in furtherance of the performance of this Agreement. CONTRACTOR shall, at CITY's request, furnish satisfactory evidence that all obligations of the nature here and above designated have been paid, discharged, or waived. If CONTRACTOR fails to do so, then CITY may, after having served written notice on the CONTRACTOR, either pay directly unpaid bills, of which the CITY has written notice, or withhold from the CONTRACTOR's unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished that all liabilities have been fully discharged where upon payment to the CONTRACTOR shall be resumed, in accordance of the terms of this Agreement, but in no event shall the provisions of this sentence be construed to impose any obligations on the CITY to either the CONTRACTOR or its surety. In paying any unpaid bills of the CONTRACTOR, the CITY shall be deemed the agent of the CONTRACTOR and any payment so made by the CITY shall be considered as payment made under the contract by the CITY to the CONTRACTOR and the CITY shall not be liable to the CONTRACTOR for any such payments made in good faith.

Any defective work that is either corrected or replaced shall be warrantied and guaranteed for a period of one year from the date of such correction or replacement.

- J. Attorney's Fees: In the event either party commences any action, arbitration or legal proceedings for the enforcement of this Agreement, the prevailing party, as determined by the court or arbitrator, shall be entitled to recovery of its attorney's fees and court costs incurred in the action brought thereon.
- K. Headings: Section headings are provided for organizational purposes only and do not in any manner affect the scope or intent of the provisions thereunder.

- L. Firearms Prohibited: Guns may not be carried by contractors /vendors/consultants while working on City of Tulare premises without the expressed written approval of a City of Tulare Department Head, or an exemption in the contract. If a contractor/vendor/ consultant is caught carrying a gun, without City permission, their contract will be terminated.
- M. Time is of the Essence: Time is of the essence in the performance of the construction anticipated by this Contract.
- N. Liquidated Damages: CITY AND CONTRACTOR ACKNOWLEDGE AND AGREE THAT TIME IS OF THE ESSENCE FOR THIS PROJECT. THEREFORE, FOR EACH DAY THE PROJECT IS DELAYED BEYOND THE AGREED COMPLETION DATE OF NINETY (90) WORKING DAYS, IT WOULD BE EXTREMELY DIFFICULT AND IMPRACTICAL TO ASCERTAIN THE EXTENT OF THE DETRIMENT TO CITY. THE PARTIES HAVE DETERMINED AND AGREED THAT THE ACTUAL AMOUNT OF DAMAGES THAT WOULD BE SUFFERED BY CITY AS A RESULT OF ANY SUCH DELAY IS THE SUM OF TWO HUNDRED DOLLARS (\$200.00) PER DAY, WHICH IS A REASONABLE ESTIMATE OF THE AMOUNT OF SUCH DAMAGES. THE PAYMENT OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369, BUT IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO CITY PURSUANT TO CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677. CITY HEREBY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 3389. CITY AGREES THAT THESE LIQUIDATED DAMAGES SHALL BE IN LIEU OF ANY OTHER MONETARY RELIEF OR OTHER REMEDY FOR DELAY, INCLUDING, WITHOUT LIMITATION, SPECIFIC PERFORMANCE, TO WHICH CITY MIGHT OTHERWISE BE ENTITLED UNDER THIS AGREEMENT, AT LAW OR IN EQUITY, AND SHALL BE CITY'S SOLE AND EXCLUSIVE RIGHT AND REMEDY, EXCEPT THAT CITY MAY TERMINATE THE AGREEMENT.

CITY _____

CONTRACTOR _____

Attachment 2
INSURANCE REQUIREMENTS

1. CONTRACTOR Insurance. CONTRACTOR, at its sole cost and expense, for the full term of this Agreement (and any extensions thereof), shall obtain and maintain at a minimum compliance with all of the following insurance coverage(s) and requirements. Such insurance coverage shall be primary coverage as respects CITY and any insurance or self-insurance maintained by CITY shall be in excess of CONTRACTOR's insurance coverage and shall not contribute to it.
2. Subcontractor(s) Insurance. If CONTRACTOR utilizes one or more subcontractors in the performance of this Agreement, CONTRACTOR shall obtain and maintain independent insurance as to each subcontractor or otherwise provide evidence of insurance coverage for each subcontractor equivalent to that required of CONTRACTOR in this Agreement.
3. Types of Insurance and Minimum Limits. The following types of insurance and minimum limits are required providing at least the following minimum coverage and limits of liability:
 - a. Worker's Compensation written in accordance with the laws of the State of California providing coverage for any and all employees of CONTRACTOR in the minimum statutorily required coverage amounts;
 - b. Automobile Liability Insurance for each of CONTRACTOR's vehicles used in the performance of this Agreement, including owned, non-owned (e.g. owned by CONTRACTOR's employees or contractors), leased or hired vehicles, in the minimum amount of \$1,000,000 combined single limit per occurrence for bodily injury and property damage. This insurance coverage shall not be required if vehicle used by CONTRACTOR is not a material part of performance of this Agreement.
 - c. Comprehensive or Commercial General Liability Insurance coverage in the minimum amount of \$1,000,000 combined single limit, including coverage for:
 - (1) bodily injury;
 - (2) personal injury;
 - (3) broad form property damage;
 - (4) contractual liability;
 - (5) cross-liability;
 - (6) products and completed operations liability
4. Other Insurance Provisions.

If any insurance coverage required in this Agreement is provided on a "Claims Made" rather than "Occurrence" form, CONTRACTOR agrees to maintain the required coverage for a period of three (3) years after the expiration of this Agreement (hereinafter "post agreement coverage") and any extensions thereof. CONTRACTOR may maintain the required post agreement coverage by renewal or purchase of prior acts or tail coverage. This provision is contingent upon post agreement coverage being both available and reasonably affordable in relation to the coverage provided during the term of this Agreement. For purposes of interpreting this requirement, a cost not exceeding 100% of the last annual policy premium during the term of this Agreement in order to purchase prior acts or tail coverage for post agreement coverage shall be deemed to be reasonable.
5. Endorsements.

All required Automobile and Comprehensive or Commercial General Liability Insurance shall be endorsed to contain the following clauses:

- a. The City of Tulare, its officers, agents, employees, representatives, and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured, performed under contract with the City of Tulare.
 - b. It is agreed that any insurance maintained by the City of Tulare shall apply in excess of and not contribute with insurance provided by this policy.
 - c. This insurance shall not be canceled, limited in scope or coverage, or non-renewed until after thirty (30) days prior written notice has been given to the City Clerk, City of Tulare, 411 E. Kern Ave., Tulare, CA, 93274
6. Proof of Coverage.
CONTRACTOR agrees to provide its insurance broker(s) with a full copy of these insurance provisions and provide CITY on or before the effective date of this Agreement with Certificate(s) of Insurance for all required coverages. Copies of all the required Endorsements shall be attached to the Certificate(s) of Insurance or other evidence of insurance acceptable to the City of Tulare, which shall be provided by CONTRACTOR's insurance company as evidence of the stipulated coverages. This Proof of Coverage shall then be mailed to the City of Tulare at the following address:

City of Tulare
411 E. Kern Ave.
Tulare, CA 93274
Attn: City Clerk