

CITY OF ATWATER

CITY COUNCIL AGENDA

Council Chambers
750 Bellevue Road
Atwater, California

March 14, 2016

CALL TO ORDER:

5:00 PM

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

Bergman____, **Raymond** ____, **Rivero**____, **Vineyard** ____, **Price**____

CLOSED SESSION:

Adjourn to Conference Room A

- a. **Conference with Legal Counsel – Anticipated Litigation – Government Code Section 54956.9(b): Number of cases: (2)**
- b. **Public Employment Appointment – Government Code Section 54957
Title: CAL FIRE Battalion Chief**
- c. **Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding Property Disposition. Agency Negotiator: Community Development Director McBride**

**Property Locations: APN 001-134-012
APN 001-134-015**

REGULAR SESSION: (Council Chambers)

6:00 PM

CALL TO ORDER:

PLEDGE OF ALLEGIANCE TO THE FLAG:

INVOCATION:

Invocation by Police Chaplain McClellan



ROLL CALL:

Bergman____, **Raymond** ____, **Rivero**____, **Vineyard** ____, **Price**____

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

SUBSEQUENT NEED ITEMS: (The City Clerk shall announce any requests for items requiring immediate action subsequent to the posting of the agenda. Subsequent need items require a two-thirds vote of the members of the City Council present at the meeting.)

APPROVAL OF AGENDA AS POSTED OR AS AMENDED: (This is the time for the City Council to remove items from the agenda or to change the order of the agenda.)

Staff's Recommendation: Motion to approve agenda as posted or as amended.

CEREMONIAL MATTERS:

- **Presentation of Certificates of Appreciation from Merced County Veterans to City of Atwater (Merced County Veterans Service Officer John Ceccoli)**

Staff's Recommendation: That Police Chief/City Manager Pietro and Police Officer Dash accept the Certificates of Appreciation from Merced County Veterans for refurbishing and donating bicycles to homeless veterans for transportation.

PRESENTATIONS:

- **Monthly verbal report by Merced County District 3 Supervisor McDaniel**
- **Transportation Expenditure Plan (Merced County Association of Governments Executive Director Marjie Kirn)**

COMMENTS FROM THE PUBLIC:

NOTICE TO THE PUBLIC

At this time any person may comment on any item which is not on the agenda. Please state your name and address for the record. Action will not be taken on an item that is not on the agenda. If it requires action, it will be referred to staff and/or placed on a future agenda.

To comment on an item that is **on** the agenda, please wait until the item is read for consideration; please limit comments to a maximum of five (5) minutes.

Civility is expected from members of the public during the meeting. For more efficient use of time, disruptive behavior will not be tolerated. While you may not agree with what an individual is saying, please treat everyone with courtesy and respect.

NOTICE TO THE PUBLIC

Background information has been provided on all matters listed under the Consent Calendar, and these items are considered to be routine. All items under the Consent Calendar are normally approved by one motion. If discussion is requested on any item, that item will be removed from the Consent Calendar for separate action.

WARRANTS:

1. a) **February 22, 2016**
b) **March 14, 2016**

Staff's Recommendation: Approval of warrants as listed.

MINUTES: (City Council)

2. a) **Regular meeting, February 8, 2016**
b) **Special meeting, February 25, 2016**

Staff's Recommendation: Approval of minutes as listed.

MINUTES: (Commissions)

3. **Community Development and Resources, January 20, 2016**

Staff's Recommendation: Acceptance of minutes as listed.

RESOLUTIONS:

4. **Consents to inclusion of City of Atwater properties in California Home Finance Authority PACE Programs and Associate Membership in California Home Finance Authority** (Community Development Director McBride)

Staff's Recommendation: Adoption of Resolution No. 2873-16 consenting to inclusion of properties within the City's jurisdiction in the California Home Finance Authority Community Facilities District No. 2014-1 (Clean Energy) to finance renewable energy improvements, energy efficiency and water conservation improvements, and electric vehicle charging infrastructure and approving Associate Membership in the Joint Exercise of Powers Authority related thereto (SB555); and adoption of Resolution No. 2874-16 consenting to inclusion of properties within the City's jurisdiction in the California Home Finance Authority program to finance renewable energy generation, energy and water efficiency improvements, and electric vehicle charging infrastructure and approving Associate Membership in the Joint Exercise of Powers Authority related thereto (AB811); and authorizes and directs the City Manager to execute any documents relating to participation on behalf of the City.

AGREEMENTS:

5. **Approval of participation in the Merced Integrated Regional Water Management Authority and authorizing execution of the Joint Powers Agreement** (Water Division Manager/Chief Operator Shaw)

Staff's Recommendation: Approval of participation in the Merced Integrated Regional Water Management Authority and authorizes and directs the Mayor to execute the Joint Powers Agreement, in a form approved by the City Attorney, on behalf of the City.

6. **Approval of professional services agreement with VVH Consulting Engineers, Inc. for on call general engineering services** (Community Development Director McBride)

Staff's Recommendation: Approval of professional services agreement, in a form approved by the City Attorney, with VVH Consulting Engineers, Inc. (VVH) for on call general engineering services; and authorizes the City Manager to execute the agreement on behalf of the City.

REPORTS:

7. **Monthly review of local drought emergency** (City Attorney Terpstra)

Staff's Recommendation: Reaffirms the facts and findings in Resolution No. 2823-15 declaring the existence of a local drought emergency.

PUBLIC IMPROVEMENTS:

8. **Acceptance of new Tier 4 water truck** (Water Division Manager/Chief Operator Shaw)

Staff's Recommendation: Acceptance of work done under contract to manufacture and deliver a new Tier 4 water truck, City Project No. 14-6, Bid Call No. 671-15; authorizes the City Manager to sign a Notice of Completion and have it recorded on behalf of the City; and authorizes a final payment in the amount of \$113,290.92.

CLAIMS AGAINST THE CITY: (Note to the Public: Portions of this claim have been redacted because they do not affect the City Council's ability to make a decision on the claim. The claim however, is a public document and can be made available upon request by members of the public. If you have any questions or would like to request this document, please contact the City Clerk's office at (209) 357-6205).

9. **Claim No. 2016-2**

Staff's Recommendation: After consideration and investigation, it is staff's recommendation that Claim No. 2016-2 be rejected.

10. Claim No. 2016-3

Staff's Recommendation: After consideration and investigation, it is staff's recommendation that Claim No. 2016-3 be rejected.

PETITIONS:

11. Approval of Atwater Youth Baseball, Softball, & T-ball's (AYBS&T) request for assistance with Opening Day ceremonies

Staff's Recommendation: Approval of request for assistance with AYBS&T Opening Day ceremonies on March 19, 2016 from 8:00 AM – 10:00 AM; to set out barricades and "No Parking" signs; to help control traffic and parking; and to assist with the "Procession of Players" beginning at Broadway and Fifth Street and ending at Memorial Park.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

12. Police Department activities and projects for the month of February, 2016 (Police Lieutenant Joseph)

13. Police Volunteer activities for the month of February, 2016 (Police Volunteer Vineyard)

14. Fire Department activities and projects for the month of February, 2016 (CAL FIRE Battalion Chief Pimentel)

15. Public Works Department activities and projects for the month of February, 2016 (Interim Public Works Director Faretta)

FUNDING AND BUDGET MATTERS:

16. Accepting Audited Financial Statements for the fiscal year ended June 30, 2015 (Finance Director Deol)

Staff's Recommendation: Motion to accept the Audited Financial Statements for the fiscal year ended June 30, 2015; or

Motion to approve staff's recommendation as presented.

17. Approving refinancing CalPERS Side Fund (a portion of the City's unfunded liability) for the Miscellaneous and Safety Plans (Finance Director Deol)

Staff's Recommendation: Motion to adopt Resolution No. 2880-16 approving the form and authorizing execution and delivery of certain lease financing documents in connection with the refinancing of a portion of the City's outstanding Unfunded Accrued Actuarial Liability to the California Public Employees' Retirement System, and providing for other matters properly related thereto; or

Motion to approve staff's recommendation as presented.

CITY ATTORNEY REPORTS/UPDATES:

- 18. Adopting resolution declaring City's intent to track water usage using two methods for State-mandated water reporting**

Staff's Recommendation: Motion to adopt Resolution No. 2877-16 declaring City's intent to track water usage using two methods; first, by including all users of water including the Atwater Elementary School District, Atwater High School District, Teasdale Foods, and the Federal Bureau of Prisons; and second, by excluding the aforementioned customers for State-mandated water reporting; or

Motion to approve staff's recommendation as presented.

CITY COUNCIL MATTERS:

- 19. Discussion regarding MOU among the agencies within the Merced Groundwater Subbasins following the Sustainable Groundwater Management Act (SGMA) (City Council Member Vineyard)**
- 20. City Council comments and requests for future agenda items**

CLOSED SESSION:

Continuation of Closed Session if necessary

ADJOURNMENT:

CERTIFICATION:

I, Jeanna Del Real, City Clerk of the City of Atwater, do hereby certify that a copy of the foregoing agenda was posted at City Hall a minimum of 72 hours prior to the meeting.



JEANNA DEL REAL, CMC
CITY CLERK

SB 343 NOTICE

In accordance with California Government Code Section 54957.5, any writing or document that is a public record, relates to an open session agenda item and is distributed less than 72 hours prior to a regular meeting will be made available for public inspection in the office of the City Clerk at City Hall during normal business hours at 750 Bellevue Road.

If, however, the document or writing is not distributed until the regular meeting to which it relates, then the document or writing will be made available to the public at the location of the meeting, as listed on this agenda at 750 Bellevue Road.



In compliance with the Federal Americans with Disabilities Act of 1990, upon request, the agenda can be provided in an alternative format to accommodate special needs. If you require special accommodations to participate in a City Council, Commission, or Committee meeting due to a disability, please contact the City Clerk's Office at least 48 business hours in advance of the meeting at 357-6205 or 357-6204. You may also send the request by email to jdelreal@atwater.org.

~ March 2016 ~

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
		1	2	3	4 City Hall closed	5
6	7	8	9	10	11 City Hall closed	12
13 Daylight Savings Time Starts	14 City Council Meeting - 6:00 PM	15	16 Community Development & Resources Commission Meeting - 6:00 PM	17	18 City Hall closed	19 Spring Clean Up Day 7:00 AM - 2:00 PM
20	21 Oversight Board of Successor Agency to ARA Meeting - 1:30 PM	22	23	24 Merced County District 3 Supervisor McDaniel "Mobile" Office Hours - 1:30 - 3:30 PM	25 City Hall closed	26
27	28 Audit & Finance Committee Meeting - 3:30 PM City Council Meeting - 6:00 PM	29	30	31	Notes:	

~ April 2016 ~

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
					1 City Hall closed	2
3	4	5	6	7	8 City Hall closed	9
10	11 City Council Meeting - 6:00 PM	12	13	14	15 City Hall closed	16
17	18 Oversight Board of Successor Agency to ARA Meeting - 1:30 PM	19	20 Community Development & Resources Commission Meeting - 6:00 PM	21	22 City Hall closed	23
24	25 Audit & Finance Committee Meeting - 3:30 PM City Council Meeting - 6:00 PM	26	27	28 Merced County District 3 Supervisor McDaniel "Mobile" Office Hours - 1:30 - 3:30 PM	29 City Hall closed	30

WARRANTS SUMMARY FOR FEBRUARY 22, 2016 COUNCIL MEETING

TOTAL OF WARRANTS (FROM WARRANT REPORT)				\$ 773,802.87
ADDITIONAL WARRANTS (THESE AMOUNTS ARE NOT INCLUDED IN TOTAL WARRANTS)				

DATE	DESCRIPTION	AMOUNT
1/25/2016	Prewrittens included in this current warrant run.	(\$5,653.10)
2/4/2016	PERS Retirement EFT 1/14/16 - 1/27/16	\$45,049.03

TOTAL ADDITIONAL WARRANTS	<u>\$39,395.93</u>	
GRAND TOTAL OF WARRANTS PAID =====		<u>\$813,198.80</u>

INFORMATIONAL ONLY (INCLUDED IN THE TOTAL WARRANTS TOTAL)

DATE	DESCRIPTION	AMOUNT	
2/4/2016	Net Payroll	\$162,082.62	\$225,324.83 Total Payroll
2/4/2016	Federal Taxes	\$56,167.43	
2/4/2016	State Taxes	\$7,074.78	
2/4/2016	Payroll Deductions	\$2,322.68	

TOTAL INFORMATIONAL WARRANTS	<u>\$227,647.51</u>
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 CITY TREASURER

Accounts Payable

Checks for Approval

User: jdaniel
 Printed: 2/17/2016 - 12:40 PM

Prewri Hens



City of
Atwater
 Community Pride City Wide
 750 Bellevue Road, Atwater CA 95301

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67055	01/25/2016	Employee Benefits Fund	Health Insurance, Retirees	BOBBY GREGORY		1,838.49
					Check Total:	1,838.49
67056	02/05/2016	General Fund	Miscellaneous Union Dues	AFSCME DISTRICT COUNCIL 57		768.84
					Check Total:	768.84
67057	02/05/2016	General Fund	Garnishments	FRANCHISE TAX BOARD		209.96
					Check Total:	209.96
67058	02/05/2016	General Fund	Pre-Paid Legal	PRE-PAID LEGAL SERVICES		36.89
					Check Total:	36.89
67059	02/05/2016	General Fund	Garnishments	STATE DISBURSEMENT UNIT		852.92
					Check Total:	852.92
67060	02/05/2016	General Fund	Deferred Compensation	VANTAGEPOINT TRANSFER AGT-457		50.00
					Check Total:	50.00
67061	02/11/2016	Section 125 Medical	Deposits Section 125	JENNIFER DANIEL		1,896.00
					Check Total:	1,896.00
					Report Total:	5,653.10

Accounts Payable

Checks for Approval

User: jdaniel
 Printed: 2/17/2016 - 12:41 PM



City of
Atwater
Community Pride City Wide
 750 Bellevue Road, Atwater CA 95301

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67062	02/22/2016	Gas Tax/Street Improvement	Special Departmental Expense	ACE PIPE & STEEL		296.64
					Check Total:	296.64
67063	02/22/2016	Sanitation Enterprise	Solid Waste Collectn/Disposal	ALLIED WASTE SERVICES #917		198,897.24
					Check Total:	198,897.24
67064	02/22/2016	General Fund	Professional Services	ALLWAYS TOWING, L.L.C.		150.00
67064	02/22/2016	General Fund	Professional Services	ALLWAYS TOWING, L.L.C.		50.00
67064	02/22/2016	General Fund	Professional Services	ALLWAYS TOWING, L.L.C.		180.00
67064	02/22/2016	General Fund	Professional Services	ALLWAYS TOWING, L.L.C.		50.00
					Check Total:	430.00
67065	02/22/2016	Internal Service Fund	Communications	AT and T		2,241.84
67065	02/22/2016	Water Enterprise Fund	Communications	AT and T		1,137.32
67065	02/22/2016	Northwood Village LD	Communications	AT and T		104.15
67065	02/22/2016	Sewer Enterprise Fund	Communications	AT and T		1,533.94
67065	02/22/2016	Meadow View LD	Communications	AT and T		102.06
67065	02/22/2016	General Fund	Communications	AT and T		245.68
67065	02/22/2016	General Fund	Communications	AT and T		820.54
					Check Total:	6,185.53
67066	02/22/2016	Internal Service Fund	Professional Services	ATWATER AUTOMOTIVE		114.00
					Check Total:	114.00
67067	02/22/2016	Water Enterprise Fund	Professional Services	ATWATER CHIROPRACTIC, INC.		55.00
					Check Total:	55.00
67068	02/22/2016	Gas Tax/Street Improvement	Professional Services	ATWATER ELECTRIC		125.00
					Check Total:	125.00
67069	02/22/2016	General Fund	Special Departmental Expense	ATWATER MEDICAL GROUP		61.00
67069	02/22/2016	General Fund	Special Departmental Expense	ATWATER MEDICAL GROUP		114.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67070	02/22/2016	Employee Benefits Fund	Professional Services	BARTEL ASSOCIATES		175.00
					Check Total:	2,800.00
67071	02/22/2016	Water Enterprise Fund	Professional Services	BC LABORATORIES INC.		256.00
67071	02/22/2016	Water Enterprise Fund	Professional Services	BC LABORATORIES INC.		16.00
67071	02/22/2016	Water Enterprise Fund	Professional Services	BC LABORATORIES INC.		16.00
					Check Total:	2,800.00
67072	02/22/2016	Internal Service Fund	Professional Services	BENCHMARK ROOFING		288.00
						225.00
					Check Total:	225.00
67073	02/22/2016	Internal Service Fund	Professional Services	DON BENNER		1,000.00
					Check Total:	1,000.00
67074	02/22/2016	Information Technology Fund	Professional Services	BEST ELECTRIC		859.00
					Check Total:	859.00
67075	02/22/2016	Gas Tax/Street Improvement	Special Departmental Expense	BLUELINE RENTAL		948.64
67075	02/22/2016	Gas Tax/Street Improvement	Machinery & Equipment	BLUELINE RENTAL		711.72
67075	02/22/2016	Sewer Enterprise Fund	Machinery & Equipment	BLUELINE RENTAL		711.72
67075	02/22/2016	Water Enterprise Fund	Machinery & Equipment	BLUELINE RENTAL		711.72
					Check Total:	3,083.80
67076	02/22/2016	Water Enterprise Fund	Special Departmental Expense	BORGES & MAHONEY CO.		44.79
					Check Total:	44.79
67077	02/22/2016	General Fund	Training	ANTHONY S. CARDOZA		3,194.28
					Check Total:	3,194.28
67078	02/22/2016	Internal Service Fund	Special Departmental Expense	CENTRAL SANITARY SUPPLY		54.80
					Check Total:	54.80
67079	02/22/2016	Internal Service Fund	Operations & Maintenance	CHEVRON USA INC.		432.39
					Check Total:	432.39
67080	02/22/2016	Water Enterprise Fund	Special Departmental Expense	CONSOLIDATED ELECTRICAL DISTRIBUTORS		105.84
67080	02/22/2016	Gas Tax/Street Improvement	Special Departmental Expense	CONSOLIDATED ELECTRICAL DISTRIBUTORS		82.62
					Check Total:	188.46

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67081	02/22/2016	General Fund	Training	CSULB FOUNDATION		1,384.00
					Check Total:	1,384.00
67082	02/22/2016	Information Technology Fund	Professional Services	DELTA WIRELESS & NETWORK SOLUTIONS		1,727.31
67082	02/22/2016	Information Technology Fund	Professional Services	DELTA WIRELESS & NETWORK SOLUTIONS		471.69
67082	02/22/2016	Information Technology Fund	Professional Services	DELTA WIRELESS & NETWORK SOLUTIONS		3,240.00
					Check Total:	5,439.00
67083	02/22/2016	General Fund	Professional Services	DEPT. OF JUSTICE		404.00
					Check Total:	404.00
67084	02/22/2016	General Fund	Uniform & Clothing Expense	DIAMOND PRINTS		124.16
67084	02/22/2016	General Fund	Uniform & Clothing Expense	DIAMOND PRINTS		118.21
67084	02/22/2016	General Fund	Uniform & Clothing Expense	DIAMOND PRINTS		103.16
					Check Total:	345.53
67085	02/22/2016	General Fund	Training	SCOTT DUNCAN		846.25
					Check Total:	846.25
67086	02/22/2016	Ferrari Ranch Project Fund	Professional Services	EMC PLANNING GROUP INC		18,407.14
					Check Total:	18,407.14
67087	02/22/2016	Employee Benefits Fund	Unemployment Insurance	EMPLOYMENT DEVELOPMENT DEPT.		6,064.00
					Check Total:	6,064.00
67088	02/22/2016	Internal Service Fund	Operations & Maintenance	DONALD GARCIA		38.77
					Check Total:	38.77
67089	02/22/2016	General Fund	Professional Services	GUNRUNNER GUN SHOP		890.95
67089	02/22/2016	General Fund	Professional Services	GUNRUNNER GUN SHOP		1,106.95
					Check Total:	1,997.90
67090	02/22/2016	Internal Service Fund	Operations & Maintenance	HAJOCA CORPORATION		725.63
					Check Total:	725.63
67091	02/22/2016	Internal Service Fund	Professional Services	JACK'S R BETTER INC.		88.00
					Check Total:	88.00
67092	02/22/2016	Gas Tax/Street Improvement	Professional Services	JLB TRAFFIC ENGINEERING, INC		902.40
					Check Total:	902.40

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67093	02/22/2016	Sewer Enterprise Fund	Professional Services	JORGENSEN COMPANY		50.00
					Check Total:	50.00
67094	02/22/2016	General Fund	Professional Services	KELSEY SOUDERS & RAMIREZ		565.94
					Check Total:	565.94
67095	02/22/2016	Internal Service Fund	Small Tools	LATTA'S AUTO SUPPLY		38.60
67095	02/22/2016	Sewer Enterprise Fund	Special Departmental Expense	LATTA'S AUTO SUPPLY		66.39
67095	02/22/2016	Internal Service Fund	Operations & Maintenance	LATTA'S AUTO SUPPLY		190.73
					Check Total:	295.72
67096	02/22/2016	General Fund	Professional Services	LEXISNEXIS RISK DATA MANAGEMENT		180.34
					Check Total:	180.34
67097	02/22/2016	General Fund	Rents & Leases	MAILFINANCE		1,605.84
					Check Total:	1,605.84
67098	02/22/2016	Internal Service Fund	Operations & Maintenance	MCAULEY MOTORS		1,614.83
67098	02/22/2016	Internal Service Fund	Operations & Maintenance	MCAULEY MOTORS		187.73
67098	02/22/2016	Internal Service Fund	Operations & Maintenance	MCAULEY MOTORS		1,257.38
67098	02/22/2016	Internal Service Fund	Operations & Maintenance	MCAULEY MOTORS		37.32
67098	02/22/2016	Internal Service Fund	Operations & Maintenance	MCAULEY MOTORS		-997.73
67098	02/22/2016	Internal Service Fund	Operations & Maintenance	MCAULEY MOTORS		-81.00
					Check Total:	2,018.53
67099	02/22/2016	Sewer Enterprise Fund	Special Departmental Expense	MERCED COUNTY DEPT.		121.69
					Check Total:	121.69
67100	02/22/2016	General Fund	Professional Services	MERCED FENCE COMPANY		95.00
					Check Total:	95.00
67101	02/22/2016	Applegate Ranch Lndscp	Utilities	MERCED IRRIGATION DISTRICT		20.80
67101	02/22/2016	Price Annexation LMA	Utilities	MERCED IRRIGATION DISTRICT		17.92
67101	02/22/2016	Bell Crossing LD	Utilities	MERCED IRRIGATION DISTRICT		248.21
67101	02/22/2016	Camellia Estates LD	Utilities	MERCED IRRIGATION DISTRICT		50.62
67101	02/22/2016	Sewer Enterprise Fund	Utilities	MERCED IRRIGATION DISTRICT		3,419.92
67101	02/22/2016	Aspenwood LD	Utilities	MERCED IRRIGATION DISTRICT		147.54
67101	02/22/2016	Applegate Ranch LD	Utilities	MERCED IRRIGATION DISTRICT		263.08
67101	02/22/2016	Camellia Meadows LD	Utilities	MERCED IRRIGATION DISTRICT		50.62
67101	02/22/2016	Mello Ranch LNDSCP	Utilities	MERCED IRRIGATION DISTRICT		47.41
67101	02/22/2016	America West LD	Utilities	MERCED IRRIGATION DISTRICT		112.53
67101	02/22/2016	Price Annexation LD	Utilities	MERCED IRRIGATION DISTRICT		151.85

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67101	02/22/2016	Meadow View LD	Utilities	MERCED IRRIGATION DISTRICT		320.13
67101	02/22/2016	Juniper Meadows LD	Utilities	MERCED IRRIGATION DISTRICT		4.21
67101	02/22/2016	General Fund	Utilities	MERCED IRRIGATION DISTRICT		595.81
67101	02/22/2016	Atwater South LD	Utilities	MERCED IRRIGATION DISTRICT		310.02
67101	02/22/2016	Mello Ranch 2 LD	Utilities	MERCED IRRIGATION DISTRICT		472.88
67101	02/22/2016	Gas Tax/Street Improvement	Utilities	MERCED IRRIGATION DISTRICT		372.63
67101	02/22/2016	Stone Creek LNDSCP	Utilities	MERCED IRRIGATION DISTRICT		15.80
67101	02/22/2016	Sewer Enterprise Fund	Utilities	MERCED IRRIGATION DISTRICT		194.23
67101	02/22/2016	Bell Crossing LNDSCP	Utilities	MERCED IRRIGATION DISTRICT		15.80
67101	02/22/2016	Water Enterprise Fund	Utilities	MERCED IRRIGATION DISTRICT		9.11
67101	02/22/2016	Stone Creek LD	Utilities	MERCED IRRIGATION DISTRICT		280.48
67101	02/22/2016	Mello Ranch LD	Utilities	MERCED IRRIGATION DISTRICT		373.78
Check Total:						7,495.38
67102	02/22/2016	General Fund	Special Departmental Expense	MERCED MEDICAL SUPPLY		24.00
Check Total:						24.00
67103	02/22/2016	General Fund	Printing & Advertising	MERCED SUN STAR-LEGALS		188.20
67103	02/22/2016	General Fund	Printing & Advertising	MERCED SUN STAR-LEGALS		132.50
67103	02/22/2016	General Fund Capital	CalFire GGRF UrbanForestMgtPln	MERCED SUN STAR-LEGALS		83.80
Check Total:						404.50
67104	02/22/2016	General Fund	Uniform & Clothing Expense	MERCED UNIFORM		232.59
67104	02/22/2016	General Fund	Uniform & Clothing Expense	MERCED UNIFORM		313.15
67104	02/22/2016	General Fund	Uniform & Clothing Expense	MERCED UNIFORM		51.25
67104	02/22/2016	General Fund	Special Departmental Expense	MERCED UNIFORM		313.15
67104	02/22/2016	General Fund	Special Departmental Expense	MERCED UNIFORM		15.99
Check Total:						926.13
67105	02/22/2016	General Fund	Professional Services	MUNICIPAL RESOURCE GROUP, LLC		2,175.60
Check Total:						2,175.60
67106	02/22/2016	General Fund	Office Supplies	NEOFUNDS BY NEOPOST		2,000.00
Check Total:						2,000.00
67107	02/22/2016	General Fund	Special Departmental Expense	THE OFFICE CITY		98.50
67107	02/22/2016	General Fund	Special Departmental Expense	THE OFFICE CITY		192.42
67107	02/22/2016	General Fund	Special Departmental Expense	THE OFFICE CITY		31.20
Check Total:						322.12
67108	02/22/2016	General Fund	Special Departmental Expense	O'REILLY AUTO PARTS		13.79
67108	02/22/2016	Internal Service Fund	Special Departmental Expense	O'REILLY AUTO PARTS		32.37

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67108	02/22/2016	Internal Service Fund	Operations & Maintenance	O'REILLY AUTO PARTS		221.80
67108	02/22/2016	Internal Service Fund	Operations & Maintenance	O'REILLY AUTO PARTS		216.13
67108	02/22/2016	Internal Service Fund	Small Tools	O'REILLY AUTO PARTS		15.11
67108	02/22/2016	Internal Service Fund	Operations & Maintenance	O'REILLY AUTO PARTS		198.13
67108	02/22/2016	Internal Service Fund	Operations & Maintenance	O'REILLY AUTO PARTS		56.97
67108	02/22/2016	Internal Service Fund	Operations & Maintenance	O'REILLY AUTO PARTS		-29.35
Check Total:						724.95
67109	02/22/2016	Internal Service Fund	Utilities	PACIFIC GAS & ELECTRIC		3,473.04
67109	02/22/2016	Water Enterprise Fund	Utilities	PACIFIC GAS & ELECTRIC		11,033.03
67109	02/22/2016	Gas Tax/Street Improvement	Utilities	PACIFIC GAS & ELECTRIC		140.08
67109	02/22/2016	Sewer Enterprise Fund	Utilities	PACIFIC GAS & ELECTRIC		40,042.80
67109	02/22/2016	General Fund	Utilities	PACIFIC GAS & ELECTRIC		792.35
67109	02/22/2016	Cottage Gardens LD	Utilities	PACIFIC GAS & ELECTRIC		91.58
67109	02/22/2016	General Fund	Utilities	PACIFIC GAS & ELECTRIC		1,093.97
67109	02/22/2016	General Fund	Utilities	PACIFIC GAS & ELECTRIC		2,557.36
67109	02/22/2016	Woodhaven LD	Utilities	PACIFIC GAS & ELECTRIC		41.43
67109	02/22/2016	Price Annexation LD	Utilities	PACIFIC GAS & ELECTRIC		1,729.17
67109	02/22/2016	Northwood Village LD	Utilities	PACIFIC GAS & ELECTRIC		830.87
67109	02/22/2016	General Fund	Utilities	PACIFIC GAS & ELECTRIC		943.42
67109	02/22/2016	General Fund	Utilities	PACIFIC GAS & ELECTRIC		20.28
67109	02/22/2016	Shaffer Lakes West LD	Utilities	PACIFIC GAS & ELECTRIC		142.48
67109	02/22/2016	Internal Service Fund	Utilities	PACIFIC GAS & ELECTRIC		4,423.94
67109	02/22/2016	Wildwood Estates LD	Utilities	PACIFIC GAS & ELECTRIC		211.48
67109	02/22/2016	Airport Business Park LD	Utilities	PACIFIC GAS & ELECTRIC		1,262.84
67109	02/22/2016	Pajaro Dunes LD	Utilities	PACIFIC GAS & ELECTRIC		70.25
67109	02/22/2016	Orchard Park Estates LD	Utilities	PACIFIC GAS & ELECTRIC		378.68
67109	02/22/2016	Sandlewood Square LD	Utilities	PACIFIC GAS & ELECTRIC		74.57
67109	02/22/2016	Sierra Parks LD	Utilities	PACIFIC GAS & ELECTRIC		224.97
67109	02/22/2016	Water Enterprise Fund	Utilities	PACIFIC GAS & ELECTRIC		10,402.27
67109	02/22/2016	General Fund	Utilities	PACIFIC GAS & ELECTRIC		40.98
67109	02/22/2016	Gas Tax/Street Improvement	Utilities	PACIFIC GAS & ELECTRIC		13,231.39
67109	02/22/2016	Atwater South LD	Utilities	PACIFIC GAS & ELECTRIC		132.55
67109	02/22/2016	Gas Tax/Street Improvement	Utilities	PACIFIC GAS & ELECTRIC		486.80
67109	02/22/2016	Shaffer Lakes East LD	Utilities	PACIFIC GAS & ELECTRIC		487.87
67109	02/22/2016	General Fund	Utilities	PACIFIC GAS & ELECTRIC		760.67
67109	02/22/2016	Internal Service Fund	Utilities	PACIFIC GAS & ELECTRIC		1,009.74
67109	02/22/2016	Sewer Enterprise Fund	Utilities	PACIFIC GAS & ELECTRIC		1,766.83
67109	02/22/2016	Woodview Garland LA	Utilities	PACIFIC GAS & ELECTRIC		41.43
Check Total:						97,939.12
67110	02/22/2016	Internal Service Fund	Communications	PACIFIC TELEMANAGEMENT		78.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	78.00
67111	02/22/2016	General Fund	Special Departmental Expense	PRESTON'S LOCK & KEY		30.24
67111	02/22/2016	Internal Service Fund	Operations & Maintenance	PRESTON'S LOCK & KEY		72.99
					Check Total:	103.23
67112	02/22/2016	General Fund	Special Departmental Expense	PRIME SHINE, INC		108.50
					Check Total:	108.50
67113	02/22/2016	Information Technology Fund	Professional Services	QUICKPCSUPPORT		17,329.00
67113	02/22/2016	Information Technology Fund	Special Departmental Expense	QUICKPCSUPPORT		240.84
67113	02/22/2016	Water Enterprise Fund	Professional Services	QUICKPCSUPPORT		220.00
67113	02/22/2016	Information Technology Fund	Professional Services	QUICKPCSUPPORT		5,505.00
67113	02/22/2016	Information Technology Fund	Special Departmental Expense	QUICKPCSUPPORT		585.00
					Check Total:	23,879.84
67114	02/22/2016	Water Enterprise Fund	Professional Services	RAFTELIS FINANCIAL		1,508.75
67114	02/22/2016	Sewer Enterprise Fund	Professional Services	RAFTELIS FINANCIAL		1,508.75
67114	02/22/2016	Water Enterprise Fund	Professional Services	RAFTELIS FINANCIAL		3,887.50
67114	02/22/2016	Sewer Enterprise Fund	Professional Services	RAFTELIS FINANCIAL		512.50
					Check Total:	7,417.50
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		185.92
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		14.86
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		365.93
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		545.94
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		365.93
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		14.86
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		365.93
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		185.91
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		14.86
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		336.41
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		14.86
67115	02/22/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		14.86
					Check Total:	2,426.27
67116	02/22/2016	RDVLPMT Obligation Retirement	Professional Services	ROSENOW SPEVACEK GROUP INC.		5,325.00
					Check Total:	5,325.00
67117	02/22/2016	General Fund	Training	SACRAMENTO REGIONAL PUBLIC		143.00
					Check Total:	143.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67118	02/22/2016	Mello Ranch LNDSCP	Special Departmental Expense	SAFE-T-LITE		256.82
67118	02/22/2016	Atwater South LNDSCP	Special Departmental Expense	SAFE-T-LITE		513.63
67118	02/22/2016	Water Enterprise Fund	Uniform & Clothing Expense	SAFE-T-LITE		42.65
					Check Total:	813.10
67119	02/22/2016	Water Enterprise Fund	Professional Services	SHANNON PUMP CO.		116.25
					Check Total:	116.25
67120	02/22/2016	Water Enterprise Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		96.34
67120	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		9.02
					Check Total:	105.36
67121	02/22/2016	General Fund	Professional Services	STERICYCLE, INC.		25.55
					Check Total:	25.55
67122	02/22/2016	General Fund	Special Departmental Expense	TASER INTERNATIONAL		1,232.28
67122	02/22/2016	General Fund	Special Departmental Expense	TASER INTERNATIONAL		922.57
					Check Total:	2,154.85
67123	02/22/2016	General Fund	Professional Services	TNB TOWING & RECOVERY		180.00
67123	02/22/2016	General Fund	Professional Services	TNB TOWING & RECOVERY		50.00
					Check Total:	230.00
67124	02/22/2016	Internal Service Fund	Special Departmental Expense	TRACTOR SUPPLY CREDIT PLAN		51.66
67124	02/22/2016	Sewer Enterprise Fund	Special Departmental Expense	TRACTOR SUPPLY CREDIT PLAN		14.03
67124	02/22/2016	Internal Service Fund	Special Departmental Expense	TRACTOR SUPPLY CREDIT PLAN		21.32
67124	02/22/2016	Internal Service Fund	Operations & Maintenance	TRACTOR SUPPLY CREDIT PLAN		2.15
67124	02/22/2016	Sewer Enterprise Fund	Small Tools	TRACTOR SUPPLY CREDIT PLAN		36.68
67124	02/22/2016	Internal Service Fund	Operations & Maintenance	TRACTOR SUPPLY CREDIT PLAN		65.20
					Check Total:	191.04
67125	02/22/2016	Sewer Enterprise Fund	Uniform & Clothing Expense	UNIFIRST CORPORATION		146.22
67125	02/22/2016	Internal Service Fund	Uniform & Clothing Expense	UNIFIRST CORPORATION		24.33
67125	02/22/2016	Internal Service Fund	Uniform & Clothing Expense	UNIFIRST CORPORATION		20.10
67125	02/22/2016	Sanitation Enterprise	Uniform & Clothing Expense	UNIFIRST CORPORATION		29.73
67125	02/22/2016	Gas Tax/Street Improvement	Uniform & Clothing Expense	UNIFIRST CORPORATION		163.83
67125	02/22/2016	Water Enterprise Fund	Uniform & Clothing Expense	UNIFIRST CORPORATION		83.70
67125	02/22/2016	Internal Service Fund	Special Departmental Expense	UNIFIRST CORPORATION		40.28
					Check Total:	508.19
67126	02/22/2016	RDVLPMT Obligation Retirement	UPRR Reimb-WW/Atw Blvd Signal	UNION PACIFIC RAILROAD CO.		107,576.36

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	107,576.36
67127	02/22/2016	Risk Management Fund	Disability Insurance	UNUM LIFE INSURANCE		2,506.61
67127	02/22/2016	Risk Management Fund	Disability Insurance	UNUM LIFE INSURANCE		662.84
67127	02/22/2016	Risk Management Fund	Life Insurance	UNUM LIFE INSURANCE		1,119.30
					Check Total:	4,288.75
67128	02/22/2016	Internal Service Fund	Operations & Maintenance	VALLEY LUBE EQUIPMENT		34.38
					Check Total:	34.38
67129	02/22/2016	Water Enterprise Fund	Professional Services	VALLEY UTILITIE CONSTRUCTION, INC.		1,800.00
					Check Total:	1,800.00
67130	02/22/2016	General Fund	Training	ROBERT VARGAS		4,219.92
					Check Total:	4,219.92
67131	02/22/2016	Sewer Enterprise Fund	Professional Services	VEOLIA WATER NORTH AMERICA OPERATING		148,046.02
					Check Total:	148,046.02
67132	02/22/2016	General Fund	Special Departmental Expense	VIGILANT CANINE SERVICES		250.00
					Check Total:	250.00
67133	02/22/2016	Employee Benefits Fund	Vision Insurance	VISION SERVICE PLAN (CA)		932.88
					Check Total:	932.88
67134	02/22/2016	Sewer Enterprise Fund	Special Departmental Expense	W.W. GRAINGER, INC.		466.07
67134	02/22/2016	Sewer Enterprise Fund	Special Departmental Expense	W.W. GRAINGER, INC.		327.47
					Check Total:	793.54
67135	02/22/2016	Water Enterprise Fund	Accounts Payable	WALGREENS #6718		13,420.03
					Check Total:	13,420.03
67136	02/22/2016	Internal Service Fund	Special Departmental Expense	WARD ENTERPRISES		46.61
					Check Total:	46.61
67137	02/22/2016	Internal Service Fund	Utilities	WEST COAST GAS CO. INC.		26.02
					Check Total:	26.02
67138	02/22/2016	Sewer Fund Capital Replacement	Wastewater Trtmtnt Plt Exp	WEST YOST & ASSOCIATES		241.68

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	241.68
67139 /	02/22/2016	Measure H Fund	Rents & Leases	WESTAMERICA BANK		28,476.81
					Check Total:	28,476.81
67140 /	02/22/2016	Water Enterprise Fund	Utilities	WGL ENERGY SYSTEMS, INC		11,513.15
67140	02/22/2016	Internal Service Fund	Utilities	WGL ENERGY SYSTEMS, INC		1,631.24
67140	02/22/2016	Water Enterprise Fund	Utilities	WGL ENERGY SYSTEMS, INC		10,807.31
67140	02/22/2016	Internal Service Fund	Utilities	WGL ENERGY SYSTEMS, INC		1,285.06
67140	02/22/2016	Internal Service Fund	Utilities	WGL ENERGY SYSTEMS, INC		960.22
67140	02/22/2016	Water Enterprise Fund	Utilities	WGL ENERGY SYSTEMS, INC		7,015.43
67140	02/22/2016	Water Enterprise Fund	Utilities	WGL ENERGY SYSTEMS, INC		7,984.58
67140	02/22/2016	Internal Service Fund	Utilities	WGL ENERGY SYSTEMS, INC		855.63
					Check Total:	42,052.62
67141 /	02/22/2016	Sewer Enterprise Fund	Accounts Payable	JACK WILCOX		71.25
67141	02/22/2016	Sanitation Enterprise	Accounts Payable	JACK WILCOX		25.24
67141	02/22/2016	Water Enterprise Fund	Accounts Payable	JACK WILCOX		28.84
67141	02/22/2016	Sanitation Enterprise	Accounts Payable	JACK WILCOX		6.73
					Check Total:	132.06
67142 /	02/22/2016	General Fund	Professional Services	YOSEMITE AUTO BODY		150.00
					Check Total:	150.00
					Report Total:	768,149.77

WARRANTS SUMMARY FOR MARCH 14, 2016 COUNCIL MEETING

TOTAL OF WARRANTS (FROM WARRANT REPORT)				\$ 991,143.08
ADDITIONAL WARRANTS (THESE AMOUNTS ARE NOT INCLUDED IN TOTAL WARRANTS)				

DATE	DESCRIPTION	AMOUNT
2/22/2016	Prewrittens included in this current warrant run.	(\$219,103.41)
2/18/2016	PERS Retirement EFT 1/28/16 - 2/10/16	\$42,845.64
3/3/2016	PERS Retirement EFT 2/11/16 - 2/24/16	\$42,736.80
2/22/2016	AFLAC-FEBRUARY 2015	\$789.30
2/26/2016	Retiree Medical Reimbursement-MARCH 2016	\$29,221.18
3/2/2016	PERS Health - MARCH 2016	\$106,176.32
2/1/2016	Dental Claims/Admin.-FEBRUARY 2016	\$ 9,818.95
	TOTAL ADDITIONAL WARRANTS	<u>\$12,484.78</u>

GRAND TOTAL OF WARRANTS PAID ===== \$1,003,627.86

INFORMATIONAL ONLY (INCLUDED IN THE TOTAL WARRANTS TOTAL)

DATE	DESCRIPTION	AMOUNT	
2/18/2016	Net Payroll	\$160,418.35	\$223,861.20 Total Payroll
2/18/2016	Federal Taxes	\$55,925.30	
2/18/2016	State Taxes	\$7,517.55	
2/18/2016	Payroll Deductions	\$1,943.47	
3/3/2016	Net Payroll	\$151,107.45	\$212,094.82
3/3/2016	Federal Taxes	\$54,122.77	
3/3/2016	State Taxes	\$6,864.60	
3/3/2016	Payroll Deductions	\$1,939.78	
	TOTAL INFORMATIONAL WARRANTS	<u>\$225,804.67</u>	


 CITY TREASURER

Accounts Payable

Checks for Approval

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Prewrittens



City of
Atwater
 Community Pride City Wide
 750 Bellevue Road, Atwater CA 95301

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67143	02/22/2016	General Fund	Youth Basketball	SABRINA ALVARADO		120.00
					Check Total:	120.00
67144	02/22/2016	General Fund	Youth Basketball	SYLVIA ALVARADO		90.00
					Check Total:	90.00
67145	02/22/2016	General Fund	Girls Volleyball	NATALIE M. BENOY		20.00
					Check Total:	20.00
67146	02/22/2016	General Fund	Adult Slo-Pitch Softball	BOLLINGER INSURANCE		300.00
					Check Total:	300.00
67147	02/22/2016	General Fund	Youth Basketball	ANTONIO CORTEZ		45.00
					Check Total:	45.00
67148	02/22/2016	Water Enterprise Fund	Accounts Payable	PETER DRAKE		72.85
					Check Total:	72.85
67149	02/22/2016	Water Enterprise Fund	Accounts Payable	MARIA ESTRADA		76.00
					Check Total:	76.00
67150	02/22/2016	General Fund	Youth Basketball	ANDREW FARETTA		60.00
					Check Total:	60.00
67151	02/22/2016	General Fund	Youth Basketball	ADONIS HILL		45.00
					Check Total:	45.00
67152	02/22/2016	General Fund	Youth Basketball	JULIANNE HUERTA		180.00
					Check Total:	180.00
67153	02/22/2016	General Fund	Youth Basketball	MARCELINA MARIANO		165.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	165.00
67154	02/22/2016	General Fund	Girls Volleyball	AMOSA M. MASANIAI		34.00
					Check Total:	34.00
67155	02/22/2016	General Fund	Youth Basketball	JAMES MCCLELLAN		90.00
					Check Total:	90.00
67156	02/22/2016	General Fund	Youth Basketball	FERNANDO PERALES		90.00
					Check Total:	90.00
67157	02/22/2016	General Fund	Youth Basketball	JAMES L. ROBINSON		51.00
					Check Total:	51.00
67158	02/22/2016	RDVLPMT Obligation Retirement	Project Retention	ROLFE CONSTRUCTION		-10,606.25
67158	02/22/2016	RDVLPMT Obligation Retirement	Atw Blvd Strscp-Dwntwn Sub	ROLFE CONSTRUCTION		212,125.00
					Check Total:	201,518.75
67159	02/22/2016	General Fund	Youth Basketball	TITUS SHIELDS		51.00
					Check Total:	51.00
67160	02/22/2016	Water Enterprise Fund	Accounts Payable	ADAM STANFORD		94.63
67160	02/22/2016	Water Enterprise Fund	Accounts Payable	ADAM STANFORD		20.00
67160	02/22/2016	Sewer Enterprise Fund	Accounts Payable	ADAM STANFORD		289.75
67160	02/22/2016	Sanitation Enterprise	Accounts Payable	ADAM STANFORD		76.62
67160	02/22/2016	General Fund	Accounts Payable	ADAM STANFORD		2.00
					Check Total:	483.00
67161	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		403.52
67161	02/22/2016	General Fund	Special Departmental Expense	STAPLES BUSINESS ADVANTAGE		132.80
67161	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		115.77
67161	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		130.72
67161	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		26.70
67161	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		-107.99
67161	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		141.81
67161	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		146.67
67161	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		12.78
67161	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		52.91
67161	02/22/2016	General Fund	Office Supplies	STAPLES BUSINESS ADVANTAGE		29.47
					Check Total:	1,085.16

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67162	02/22/2016	General Fund	Youth Basketball	RICHARD ZAMARRIPA		135.00
					Check Total:	135.00
67163	02/22/2016	General Fund	Youth Basketball	RICHARD A. ZAMARRIPA		180.00
					Check Total:	180.00
67164	02/22/2016	General Fund	Miscellaneous Union Dues	AFSCME DISTRICT COUNCIL 57		774.05
					Check Total:	774.05
67165	02/22/2016	General Fund	Garnishments	FRANCHISE TAX BOARD		188.05
					Check Total:	188.05
67166	02/22/2016	General Fund	Pre-Paid Legal	PRE-PAID LEGAL SERVICES		36.89
					Check Total:	36.89
67167	02/22/2016	General Fund	Miscellaneous Union Dues	RMHC OF THE CENTRAL VALLEY, INC.		20.78
67167	02/22/2016	General Fund	Miscellaneous Union Dues	RMHC OF THE CENTRAL VALLEY, INC.		20.78
					Check Total:	41.56
67168	02/22/2016	General Fund	Garnishments	STATE DISBURSEMENT UNIT		852.92
					Check Total:	852.92
67169	02/22/2016	General Fund	Deferred Compensation	VANTAGEPOINT TRANSFER AGT-457		50.00
					Check Total:	50.00
67170	02/23/2016	Internal Service Fund	Operations & Maintenance	CHEVRON USA INC.		575.73
					Check Total:	575.73
67171	02/26/2016	Employee Benefits Fund	Health Insurance, Retirees	RAMONA BLAKE		242.24
					Check Total:	242.24
67172	02/26/2016	Employee Benefits Fund	Health Insurance, Retirees	DAVID CHURCH		630.19
					Check Total:	630.19
67173	02/26/2016	Employee Benefits Fund	Health Insurance, Retirees	GARY FRAGO		334.76
					Check Total:	334.76
67174	02/26/2016	Employee Benefits Fund	Health Insurance, Retirees	BOBBY GREGORY		1,838.49
					Check Total:	1,838.49

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67175	02/26/2016	Employee Benefits Fund	Health Insurance, Retirees	DARRELL HAMMIT		630.19
					Check Total:	630.19
67176	02/26/2016	Employee Benefits Fund	Health Insurance, Retirees	RENE MENDOZA		870.77
					Check Total:	870.77
67177	02/26/2016	Employee Benefits Fund	Health Insurance, Retirees	BILL SWALLEY		66.88
					Check Total:	66.88
67178	02/26/2016	Employee Benefits Fund	Health Insurance, Retirees	BENJAMIN THOMAS		820.08
					Check Total:	820.08
67179	03/03/2016	Internal Service Fund	Professional Services	COLEMAN HEATING & A/C		201.61
67179	03/03/2016	Internal Service Fund	Professional Services	COLEMAN HEATING & A/C		1,052.11
67179	03/03/2016	Internal Service Fund	Professional Services	COLEMAN HEATING & A/C		115.00
67179	03/03/2016	Internal Service Fund	Professional Services	COLEMAN HEATING & A/C		188.50
67179	03/03/2016	Internal Service Fund	Professional Services	COLEMAN HEATING & A/C		176.00
67179	03/03/2016	Internal Service Fund	Special Departmental Expense	COLEMAN HEATING & A/C		165.00
67179	03/03/2016	Internal Service Fund	Special Departmental Expense	COLEMAN HEATING & A/C		218.50
					Check Total:	2,116.72
67180	02/25/2016	General Fund	Special Departmental Expense	ANDREW OVERBAY		167.18
					Check Total:	167.18
67181	02/25/2016	Gas Tax/Street Improvement	Communications	VERIZON WIRELESS		38.01
67181	02/25/2016	Internal Service Fund	Communications	VERIZON WIRELESS		10.81
67181	02/25/2016	General Fund	Communications	VERIZON WIRELESS		250.66
67181	02/25/2016	Measure H Fund	Communications	VERIZON WIRELESS		54.03
67181	02/25/2016	General Fund	Communications	VERIZON WIRELESS		540.01
67181	02/25/2016	Internal Service Fund	Communications	VERIZON WIRELESS		10.81
67181	02/25/2016	General Fund	Communications	VERIZON WIRELESS		649.52
67181	02/25/2016	Water Enterprise Fund	Communications	VERIZON WIRELESS		143.94
67181	02/25/2016	Gas Tax/Street Improvement	Communications	VERIZON WIRELESS		82.38
67181	02/25/2016	General Fund	Communications	VERIZON WIRELESS		54.03
67181	02/25/2016	CFD Districts	Communications	VERIZON WIRELESS		54.03
67181	02/25/2016	General Fund	Communications	VERIZON WIRELESS		54.03
67181	02/25/2016	Sewer Enterprise Fund	Communications	VERIZON WIRELESS		92.91
					Check Total:	2,035.17
67182	03/08/2016	General Fund	Miscellaneous Union Dues	AFSCME DISTRICT COUNCIL 57		768.83
					Check Total:	768.83

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67183	03/08/2016	General Fund	Garnishments	FRANCHISE TAX BOARD		231.14
					Check Total:	231.14
67184	03/08/2016	General Fund	Pre-Paid Legal	PRE-PAID LEGAL SERVICES		36.89
					Check Total:	36.89
67185	03/08/2016	General Fund	Garnishments	STATE DISBURSEMENT UNIT		852.92
					Check Total:	852.92
67186	03/08/2016	General Fund	Deferred Compensation	VANTAGEPOINT TRANSFER AGT-457		50.00
					Check Total:	50.00
					Report Total:	219,103.41

Accounts Payable

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City of
Atwater
 Community Pride City Wide

750 Bellevue Road, Atwater CA 95301

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67187	03/14/2016	General Fund	Office Supplies	ABS PRESORT, INC.		1,857.84
					Check Total:	1,857.84
67188	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	ALL-PHASE ELECTRIC		6.72
67188	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	ALL-PHASE ELECTRIC		547.12
					Check Total:	553.84
67189	03/14/2016	General Fund	Youth Basketball	SABRINA ALVARADO		140.00
67189	03/14/2016	General Fund	Adult Co-Ed Volleyball	SABRINA ALVARADO		60.00
					Check Total:	200.00
67190	03/14/2016	General Fund	Youth Basketball	SYLVIA ALVARADO		180.00
67190	03/14/2016	General Fund	Adult Co-Ed Volleyball	SYLVIA ALVARADO		50.00
					Check Total:	230.00
67191	03/14/2016	Employee Benefits Fund	Health Insurance, Retirees	AMERICAN REPUBLIC		424.89
					Check Total:	424.89
67192	03/14/2016	Internal Service Fund	Utilities	AMERIGAS - MODESTO		85.32
67192	03/14/2016	Internal Service Fund	Utilities	AMERIGAS - MODESTO		139.32
67192	03/14/2016	Internal Service Fund	Utilities	AMERIGAS - MODESTO		1,259.18
					Check Total:	1,483.82
67193	03/14/2016	General Fund	Professional Services	ANIMAL MEDICAL CENTER		39.00
67193	03/14/2016	General Fund	Professional Services	ANIMAL MEDICAL CENTER		108.75
67193	03/14/2016	General Fund	Professional Services	ANIMAL MEDICAL CENTER		121.50
67193	03/14/2016	General Fund	Professional Services	ANIMAL MEDICAL CENTER		81.56
					Check Total:	350.81
67194	03/14/2016	Internal Service Fund	Special Departmental Expense	ASSOCIATES LOCK		8.64
67194	03/14/2016	Internal Service Fund	Professional Services	ASSOCIATES LOCK		424.40
67194	03/14/2016	Internal Service Fund	Operations & Maintenance	ASSOCIATES LOCK		30.24

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67195	03/14/2016	Gas Tax/Street Improvement	Professional Services	ATWATER ELECTRIC		2,500.00
					Check Total:	463.28
67196	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	ATWATER IRRIGATION INC.		15.72
					Check Total:	2,500.00
67197	03/14/2016	Internal Service Fund	Professional Services	ATWATER RADIATOR		15.00
					Check Total:	15.72
67198	03/14/2016	Sanitation Enterprise	Accounts Payable	DARLA AZEVEDO		1.78
67198	03/14/2016	Sanitation Enterprise	Accounts Payable	DARLA AZEVEDO		0.24
67198	03/14/2016	Water Enterprise Fund	Accounts Payable	DARLA AZEVEDO		2.20
					Check Total:	15.00
67199	03/14/2016	Internal Service Fund	Professional Services	B & B PLUMBING		101.00
					Check Total:	4.22
67200	03/14/2016	Water Enterprise Fund	Special Departmental Expense	BC LABORATORIES INC.		16.00
67200	03/14/2016	Water Enterprise Fund	Special Departmental Expense	BC LABORATORIES INC.		16.00
					Check Total:	101.00
67201	03/14/2016	General Fund	Adult Co-Ed Volleyball	NATALIE M. BENOY		30.00
					Check Total:	32.00
67202	03/14/2016	General Fund	Office Supplies	BEST IMPRESSION PRINTING		169.61
67202	03/14/2016	General Fund	Office Supplies	BEST IMPRESSION PRINTING		1,008.21
					Check Total:	30.00
67203	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	BLUELINE RENTAL		143.36
					Check Total:	1,177.82
67204	03/14/2016	General Fund	Memberships & Subscriptions	CACE		14.00
					Check Total:	143.36
67205	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	CALAVERAS MATERIALS INC.		669.67
					Check Total:	14.00
67206	03/14/2016	General Fund	Professional Services	CENTRAL VALLEY TOXICOLOGY INC.		116.00
					Check Total:	669.67

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	116.00
67207	03/14/2016	Water Enterprise Fund	Special Departmental Expense	CHEM QUIP, INC.		-150.00
67207	03/14/2016	Water Enterprise Fund	Special Departmental Expense	CHEM QUIP, INC.		866.00
					Check Total:	716.00
67208	03/14/2016	Internal Service Fund	Communications	COMCAST CABLE		117.73
67208	03/14/2016	Internal Service Fund	Communications	COMCAST CABLE		13.24
					Check Total:	130.97
67209	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	CONSOLIDATED ELECTRICAL DISTRIBUTORS		16.95
					Check Total:	16.95
67210	03/14/2016	General Fund	Youth Basketball	TODD A. DAVIS		60.00
					Check Total:	60.00
67211	03/14/2016	General Fund	Communications	DELTA WIRELESS & NETWORK SOLUTIONS		50.00
67211	03/14/2016	General Fund	Communications	DELTA WIRELESS & NETWORK SOLUTIONS		142.50
					Check Total:	192.50
67212	03/14/2016	General Fund	Uniform & Clothing Expense	DIAMOND PRINTS		258.00
					Check Total:	258.00
67213	03/14/2016	Information Technology Fund	Special Departmental Expense	DIGITAL GEAR INC.		123.75
					Check Total:	123.75
67214	03/14/2016	Information Technology Fund	Professional Services	DLB ASSOCIATES INC.		3,200.00
					Check Total:	3,200.00
67215	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	MANUEL DURAN		40.00
					Check Total:	40.00
67216	03/14/2016	Ferrari Ranch Project Fund	Professional Services	EMC PLANNING GROUP INC		9,996.11
					Check Total:	9,996.11
67217	03/14/2016	Stone Creek LNDSCP	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCES		98.55
67217	03/14/2016	Price Annexation LMA	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCES		232.80
67217	03/14/2016	Meadow View LNDSCP	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCES		89.60
67217	03/14/2016	Gas Tax/Street Improvement	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCES		241.88
67217	03/14/2016	General Fund	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCES		2,445.75
67217	03/14/2016	Atwater South LNDSCP	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCES		35.80

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67217	03/14/2016	Sandlewood Square LMA	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		26.90
67217	03/14/2016	Stone Creek LNDSCP	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		71.65
67217	03/14/2016	Mello Ranch LNDSCP	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		17.90
67217	03/14/2016	General Fund	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		2,803.90
67217	03/14/2016	Price Annexation LMA	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		295.55
67217	03/14/2016	Bell Crossing LNDSCP	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		134.50
67217	03/14/2016	Pajaro Dunes LMA	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		71.70
67217	03/14/2016	Meadow View LNDSCP	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		53.75
67217	03/14/2016	Atwater South LNDSCP	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		17.90
67217	03/14/2016	Juniper Meadows LNDSCP	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		322.50
67217	03/14/2016	Gas Tax/Street Improvement	Professional Services	ENVIRONMENTAL COMPLIANCE RESOURCE		268.75
				Check Total:		7,229.38
67218	03/14/2016	Sewer Enterprise Fund	Professional Services	MARIA ESPINOZA		242.50
				Check Total:		242.50
67219	03/14/2016	General Fund	Adult Co-Ed Volleyball	ANDREW FARETTA		30.00
67219	03/14/2016	General Fund	Youth Basketball	ANDREW FARETTA		150.00
				Check Total:		180.00
67220	03/14/2016	Sewer Enterprise Fund	Uniform & Clothing Expense	FASTENAL COMPANY		33.92
67220	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	FASTENAL COMPANY		5.99
67220	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	FASTENAL COMPANY		60.52
				Check Total:		100.43
67221	03/14/2016	General Fund	Office Supplies	FEDERAL EXPRESS		45.78
				Check Total:		45.78
67222	03/14/2016	General Fund	Professional Services	FORENSIC NURSE SPECIALISTS		1,100.00
				Check Total:		1,100.00
67223	03/14/2016	General Fund	Youth Basketball	THOMAS E. GOFF		387.00
				Check Total:		387.00
67224	03/14/2016	Water Enterprise Fund	Special Departmental Expense	GROENIGER & COMPANY #1423		708.96
67224	03/14/2016	Water Enterprise Fund	Special Departmental Expense	GROENIGER & COMPANY #1423		1,634.15
67224	03/14/2016	Water Enterprise Fund	Special Departmental Expense	GROENIGER & COMPANY #1423		404.81
67224	03/14/2016	Water Enterprise Fund	Special Departmental Expense	GROENIGER & COMPANY #1423		297.88
				Check Total:		3,045.80
67225	03/14/2016	General Fund	Youth Basketball	ADONIS HILL		186.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	186.00
67226	03/14/2016	General Fund	Maint. Buildings & Grounds	HORIZON		580.50
67226	03/14/2016	Sandlewood Square LD	Professional Services	HORIZON		59.31
67226	03/14/2016	Price Annexation LD	Professional Services	HORIZON		533.81
67226	03/14/2016	Mello Ranch LD	Professional Services	HORIZON		85.30
67226	03/14/2016	Shaffer Lakes West LD	Professional Services	HORIZON		42.37
67226	03/14/2016	Camellia Estates LD	Professional Services	HORIZON		21.47
67226	03/14/2016	Beluga Court LD	Professional Services	HORIZON		2.82
67226	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	HORIZON		1,889.51
67226	03/14/2016	Applegate Ranch LD	Professional Services	HORIZON		7.90
67226	03/14/2016	Woodview Garland LA	Professional Services	HORIZON		17.51
67226	03/14/2016	Redwood Estates LD	Professional Services	HORIZON		66.09
67226	03/14/2016	Mello Ranch 2 LD	Professional Services	HORIZON		73.43
67226	03/14/2016	Silva Ranch LD	Professional Services	HORIZON		84.73
67226	03/14/2016	Northwood Village LD	Professional Services	HORIZON		94.90
67226	03/14/2016	Woodhaven LD	Professional Services	HORIZON		25.98
67226	03/14/2016	America West LD	Professional Services	HORIZON		7.34
67226	03/14/2016	Wildwood Estates LD	Professional Services	HORIZON		28.81
67226	03/14/2016	Pajaro Dunes LD	Professional Services	HORIZON		32.76
67226	03/14/2016	Atwater South LD	Professional Services	HORIZON		85.30
67226	03/14/2016	Meadow View LD	Professional Services	HORIZON		72.30
67226	03/14/2016	Cottage Gardens LD	Professional Services	HORIZON		7.91
67226	03/14/2016	Airport Business Park LD	Professional Services	HORIZON		10.17
67226	03/14/2016	Aspenwood LD	Professional Services	HORIZON		21.47
67226	03/14/2016	Sierra Parks LD	Professional Services	HORIZON		19.77
67226	03/14/2016	Stone Creek LD	Professional Services	HORIZON		105.63
67226	03/14/2016	Camellia Meadows LD	Professional Services	HORIZON		17.51
67226	03/14/2016	Orchard Park Estates LD	Professional Services	HORIZON		79.08
67226	03/14/2016	Sewer Enterprise Fund	Professional Services	HORIZON		1,889.51
67226	03/14/2016	Bell Crossing LD	Professional Services	HORIZON		106.20
67226	03/14/2016	Juniper Meadows LD	Professional Services	HORIZON		2.82
67226	03/14/2016	Shaffer Lakes East LD	Professional Services	HORIZON		176.81
					Check Total:	6,249.02
67227	03/14/2016	Internal Service Fund	Operations & Maintenance	HOTSY PACIFIC		399.76
					Check Total:	399.76
67228	03/14/2016	General Fund	Youth Basketball	JULIANNE HUERTA		120.00
67228	03/14/2016	General Fund	Adult Co-Ed Volleyball	JULIANNE HUERTA		140.00
					Check Total:	260.00
67229	03/14/2016	General Fund	Memberships & Subscriptions	INTERNATIONAL COUNCIL		100.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	100.00
67230	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	INTERSTATE SALES		736.20
					Check Total:	736.20
67231	03/14/2016	Gas Tax/Street Improvement	ADA Accessibility Project	JAM SERVICES, INC.		10,638.00
67231	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	JAM SERVICES, INC.		853.20
					Check Total:	11,491.20
67232	03/14/2016	General Fund	Communications	JD SANDERS COMPANY LLC		325.00
					Check Total:	325.00
67233	03/14/2016	Internal Service Fund	Professional Services	JORGENSEN COMPANY		50.00
					Check Total:	50.00
67234	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	KELLOGG'S SUPPLY		131.12
67234	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	KELLOGG'S SUPPLY		6.97
67234	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	KELLOGG'S SUPPLY		7.55
67234	03/14/2016	Internal Service Fund	Operations & Maintenance	KELLOGG'S SUPPLY		334.79
67234	03/14/2016	General Fund	Special Departmental Expense	KELLOGG'S SUPPLY		131.75
67234	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	KELLOGG'S SUPPLY		31.95
67234	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	KELLOGG'S SUPPLY		99.33
					Check Total:	743.46
67235	03/14/2016	Internal Service Fund	Operations & Maintenance	LATTA'S AUTO SUPPLY		257.09
67235	03/14/2016	Internal Service Fund	Special Departmental Expense	LATTA'S AUTO SUPPLY		31.95
67235	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	LATTA'S AUTO SUPPLY		56.69
					Check Total:	345.73
67236	03/14/2016	General Fund	Youth Basketball	MARCELINA MARIANO		92.00
					Check Total:	92.00
67237	03/14/2016	General Fund	Youth Basketball	ROBERT L. MARTINEZ		137.00
					Check Total:	137.00
67238	03/14/2016	Internal Service Fund	Operations & Maintenance	MERCED CHEVROLET		22.50
					Check Total:	22.50
67239	03/14/2016	General Fund	Professional Services	MERCED FENCE COMPANY		180.00
					Check Total:	180.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67240	03/14/2016	Sewer Enterprise Fund	Professional Services	MERCED IRRIGATION DISTRICT		477.52
				Check Total:		477.52
67241	03/14/2016	General Fund	Printing & Advertising	MERCED SUN STAR-LEGALS		305.00
67241	03/14/2016	Ferrari Ranch Project Fund	Printing & Advertising	MERCED SUN STAR-LEGALS		163.40
67241	03/14/2016	General Fund Capital	CalFire GGRF UrbanForestMgtPln	MERCED SUN STAR-LEGALS		83.80
				Check Total:		552.20
67242	03/14/2016	Internal Service Fund	Operations & Maintenance	MERCED TRUCK & TRAILER INC.		92.06
67242	03/14/2016	Internal Service Fund	Operations & Maintenance	MERCED TRUCK & TRAILER INC.		484.17
67242	03/14/2016	Internal Service Fund	Small Tools	MERCED TRUCK & TRAILER INC.		50.11
67242	03/14/2016	Internal Service Fund	Operations & Maintenance	MERCED TRUCK & TRAILER INC.		-218.70
				Check Total:		407.64
67243	03/14/2016	General Fund	Uniform & Clothing Expense	MERCED UNIFORM		6.32
67243	03/14/2016	General Fund	Uniform & Clothing Expense	MERCED UNIFORM		111.08
67243	03/14/2016	General Fund	Uniform & Clothing Expense	MERCED UNIFORM		172.58
				Check Total:		289.98
67244	03/14/2016	Gas Tax/Street Improvement	Winton Way Road Improvements	MID VALLEY ENGINEERING		29,100.00
				Check Total:		29,100.00
67245	03/14/2016	Water Enterprise Fund	Machinery & Equipment	MUNICIPAL MAINTENANCE EQUIP.		20,542.10
67245	03/14/2016	Internal Service Fund	Operations & Maintenance	MUNICIPAL MAINTENANCE EQUIP.		28.13
				Check Total:		20,570.23
67246	03/14/2016	General Fund	Office Supplies	NEOFUNDS BY NEOPOST		1,040.33
				Check Total:		1,040.33
67247	03/14/2016	Parks and Recreation Fund	Misc Park & Playground Imp's	NSP3		27,362.04
				Check Total:		27,362.04
67248	03/14/2016	General Fund	Office Supplies	THE OFFICE CITY		178.36
				Check Total:		178.36
67249	03/14/2016	General Fund	Youth Basketball	FERNANDO PERALES		45.00
				Check Total:		45.00
67250	03/14/2016	Sewer Enterprise Fund	Professional Services	PHASE I CONSTRUCTION		8,382.50
				Check Total:		8,382.50

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67251	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	POSTAL CONNECTIONS #219		8.58
				Check Total:		8.58
67252	03/14/2016	Information Technology Fund	Special Departmental Expense	QUICKPCSUPPORT		215.98
67252	03/14/2016	Information Technology Fund	Special Departmental Expense	QUICKPCSUPPORT		815.38
67252	03/14/2016	Information Technology Fund	Special Departmental Expense	QUICKPCSUPPORT		259.19
				Check Total:		1,290.55
67253	03/14/2016	Sewer Enterprise Fund	Rents & Leases	RAY MORGAN COMPANY		135.75
67253	03/14/2016	Water Enterprise Fund	Rents & Leases	RAY MORGAN COMPANY		135.74
67253	03/14/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		338.82
67253	03/14/2016	Sewer Enterprise Fund	Rents & Leases	RAY MORGAN COMPANY		135.75
67253	03/14/2016	Water Enterprise Fund	Rents & Leases	RAY MORGAN COMPANY		135.74
67253	03/14/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		185.92
67253	03/14/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		365.93
67253	03/14/2016	General Fund	Rents & Leases	RAY MORGAN COMPANY		14.86
				Check Total:		1,448.51
67254	03/14/2016	Internal Service Fund	Uniform & Clothing Expense	RED WING SHOE STORES		165.23
67254	03/14/2016	Gas Tax/Street Improvement	Uniform & Clothing Expense	RED WING SHOE STORES		183.59
				Check Total:		348.82
67255	03/14/2016	General Fund	Youth Basketball	TRAVANTE RICHARD		90.00
				Check Total:		90.00
67256	03/14/2016	Internal Service Fund	Operations & Maintenance	RIVERVIEW INTL TRKS, LLC		4,503.69
				Check Total:		4,503.69
67257	03/14/2016	General Fund	Youth Basketball	JAMES L. ROBINSON		279.00
				Check Total:		279.00
67258	03/14/2016	RDVLPMT Obligation Retirement	Atw Blvd Strscp-Dwntwn Sub	ROLFE CONSTRUCTION		307,269.00
67258	03/14/2016	RDVLPMT Obligation Retirement	Project Retention	ROLFE CONSTRUCTION		-15,363.45
				Check Total:		291,905.55
67259	03/14/2016	Section 125 Medical	Deposits Section 125	STEPHANIE RUIZ		180.00
				Check Total:		180.00
67260	03/14/2016	General Fund	Adult Co-Ed Volleyball	TERRY L. RUST		85.00
				Check Total:		85.00

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67261	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	SAFE-T-LITE		18.47
					Check Total:	18.47
67262	03/14/2016	Internal Service Fund	Professional Services	SAN JOAQUIN PEST CONTROL		28.00
67262	03/14/2016	Internal Service Fund	Professional Services	SAN JOAQUIN PEST CONTROL		25.00
67262	03/14/2016	Internal Service Fund	Professional Services	SAN JOAQUIN PEST CONTROL		38.00
67262	03/14/2016	Internal Service Fund	Professional Services	SAN JOAQUIN PEST CONTROL		25.00
67262	03/14/2016	Internal Service Fund	Professional Services	SAN JOAQUIN PEST CONTROL		31.00
67262	03/14/2016	Internal Service Fund	Professional Services	SAN JOAQUIN PEST CONTROL		33.00
67262	03/14/2016	Internal Service Fund	Professional Services	SAN JOAQUIN PEST CONTROL		18.00
					Check Total:	198.00
67263	03/14/2016	General Fund	Youth Basketball	TITUS SHIELDS		96.00
					Check Total:	96.00
67264	03/14/2016	Sewer Enterprise Fund	Utilities	SIEMENS FINANCIAL SERVICES, INC.		7,068.12
					Check Total:	7,068.12
67265	03/14/2016	General Fund	Special Departmental Expense	SIRCHIE FINGERPRINT		607.51
					Check Total:	607.51
67266	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	Smith & Loveless Inc.		538.85
					Check Total:	538.85
67267	03/14/2016	General Fund	Special Departmental Expense	STERICYCLE, INC.		51.98
					Check Total:	51.98
67268	03/14/2016	Internal Service Fund	Professional Services	STRAIGHT EDGE ROOFING, INC		625.00
					Check Total:	625.00
67269	03/14/2016	Information Technology Fund	Special Departmental Expense	TELEPACIFIC COMMUNICATIONS		5,173.26
					Check Total:	5,173.26
67270	03/14/2016	Sanitation Enterprise	Professional Services	THOMAS H. TERPSTRA		262.50
67270	03/14/2016	Employee Benefits Fund	Professional Services	THOMAS H. TERPSTRA		112.50
67270	03/14/2016	General Fund	Professional Services	THOMAS H. TERPSTRA		15,249.76
67270	03/14/2016	Water Enterprise Fund	Professional Services	THOMAS H. TERPSTRA		945.00
67270	03/14/2016	Risk Management Fund	Professional Services	THOMAS H. TERPSTRA		1,260.00
67270	03/14/2016	Sewer Enterprise Fund	Professional Services	THOMAS H. TERPSTRA		1,553.75
					Check Total:	19,383.51

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
67271	03/14/2016	General Fund	Special Departmental Expense	THE SIGN GUYS		714.88
					Check Total:	714.88
67272	03/14/2016	Internal Service Fund	Operations & Maintenance	TIRE DISTRIBUTION SYSTEMS INC.		365.70
67272	03/14/2016	Internal Service Fund	Operations & Maintenance	TIRE DISTRIBUTION SYSTEMS INC.		287.07
67272	03/14/2016	Internal Service Fund	Operations & Maintenance	TIRE DISTRIBUTION SYSTEMS INC.		724.01
					Check Total:	1,376.78
67273	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	TRACTOR SUPPLY CREDIT PLAN		39.88
67273	03/14/2016	Water Enterprise Fund	Special Departmental Expense	TRACTOR SUPPLY CREDIT PLAN		71.24
67273	03/14/2016	General Fund	Special Departmental Expense	TRACTOR SUPPLY CREDIT PLAN		147.93
67273	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	TRACTOR SUPPLY CREDIT PLAN		139.58
67273	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	TRACTOR SUPPLY CREDIT PLAN		37.21
67273	03/14/2016	General Fund	Special Departmental Expense	TRACTOR SUPPLY CREDIT PLAN		33.19
					Check Total:	469.03
67274	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	TURF STAR, INC.		391.53
					Check Total:	391.53
67275	03/14/2016	Sanitation Enterprise	Uniform & Clothing Expense	UNIFIRST CORPORATION		39.64
67275	03/14/2016	Internal Service Fund	Uniform & Clothing Expense	UNIFIRST CORPORATION		32.44
67275	03/14/2016	Gas Tax/Street Improvement	Uniform & Clothing Expense	UNIFIRST CORPORATION		223.39
67275	03/14/2016	Internal Service Fund	Uniform & Clothing Expense	UNIFIRST CORPORATION		26.80
67275	03/14/2016	Water Enterprise Fund	Uniform & Clothing Expense	UNIFIRST CORPORATION		111.60
67275	03/14/2016	Internal Service Fund	Special Departmental Expense	UNIFIRST CORPORATION		72.60
67275	03/14/2016	Sewer Enterprise Fund	Uniform & Clothing Expense	UNIFIRST CORPORATION		194.96
					Check Total:	701.43
67276	03/14/2016	RDVLPMENT Obligation Retirement	UPRR Reimb-WW/Atw Blvd Signal	UNION PACIFIC RAILROAD CO.		160,906.80
					Check Total:	160,906.80
67277	03/14/2016	General Fund	Life Insurance Payable	UNUM LIFE INSURANCE		185.92
67277	03/14/2016	General Fund	Life Insurance Payable	UNUM LIFE INSURANCE		1,445.20
67277	03/14/2016	General Fund	Life Insurance Payable	UNUM LIFE INSURANCE		256.71
					Check Total:	1,887.83
67278	03/14/2016	General Fund	Community Center Rental	VALLEY CUSTOM BUILDERS		-112.00
67278	03/14/2016	General Fund	Community Center Rental	VALLEY CUSTOM BUILDERS		700.00
					Check Total:	588.00
67279	03/14/2016	General Fund	Communications	VERIZON WIRELESS		1,335.57
67279	03/14/2016	General Fund	Communications	VERIZON WIRELESS		518.83

Check Number	Check Date	Fund Name	Account Name	Vendor Name	Void	Amount
					Check Total:	1,854.40
67280	03/14/2016	Employee Benefits Fund	Vision Insurance	VISION SERVICE PLAN (CA)		905.37
67280	03/14/2016	Employee Benefits Fund	Vision Insurance	VISION SERVICE PLAN (CA)		1,655.60
					Check Total:	2,560.97
67281	03/14/2016	Risk Management Fund	Life Insurance	VOYA RETIREMENT INSURANCE		36.26
					Check Total:	36.26
67282	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	W.W. GRAINGER, INC.		1,925.78
67282	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	W.W. GRAINGER, INC.		220.84
67282	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	W.W. GRAINGER, INC.		282.52
					Check Total:	2,429.14
67283	03/14/2016	Internal Service Fund	Special Departmental Expense	WARD ENTERPRISES		22.22
67283	03/14/2016	Internal Service Fund	Special Departmental Expense	WARD ENTERPRISES		6.96
					Check Total:	29.18
67284	03/14/2016	Internal Service Fund	Utilities	WEST COAST GAS CO. INC.		47.89
					Check Total:	47.89
67285	03/14/2016	General Fund Capital	Water Truck Replacement Prj	WEST MARK		113,290.92
					Check Total:	113,290.92
67286	03/14/2016	General Fund	Professional Services	WESTAMERICA BANK		818.36
67286	03/14/2016	General Fund	Memberships & Subscriptions	WESTAMERICA BANK		50.00
67286	03/14/2016	Water Enterprise Fund	Training	WESTAMERICA BANK		300.00
67286	03/14/2016	General Fund	Uniform & Clothing Expense	WESTAMERICA BANK		348.42
67286	03/14/2016	General Fund	Travel\Conferences\Meetings	WESTAMERICA BANK		100.00
67286	03/14/2016	General Fund	Memberships & Subscriptions	WESTAMERICA BANK		130.00
67286	03/14/2016	General Fund	Special Departmental Expense	WESTAMERICA BANK		196.71
67286	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	WESTAMERICA BANK		135.28
					Check Total:	2,078.77
67287	03/14/2016	Internal Service Fund	Special Departmental Expense	WINTON HARDWARE		9.64
67287	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	WINTON HARDWARE		54.80
67287	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	WINTON HARDWARE		96.72
67287	03/14/2016	Internal Service Fund	Special Departmental Expense	WINTON HARDWARE		3.00
67287	03/14/2016	Gas Tax/Street Improvement	Special Departmental Expense	WINTON HARDWARE		8.37
67287	03/14/2016	Gas Tax/Street Improvement	Professional Services	WINTON HARDWARE		23.00
67287	03/14/2016	Sewer Enterprise Fund	Special Departmental Expense	WINTON HARDWARE		6.44
67287	03/14/2016	Internal Service Fund	Special Departmental Expense	WINTON HARDWARE		6.20



CITY OF ATWATER

CITY COUNCIL

ACTION MINUTES

February 8, 2016

OPEN SESSION: (Council Chambers)

The City Council of the City of Atwater met in Open Session this date at 5:00 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor Price presiding.

PLEDGE OF ALLEGIANCE TO THE FLAG:

The Pledge of Allegiance was led by Mayor Price.

ROLL CALL:

Present: *City Council Members Raymond, Rivero (5:03 PM), Vineyard, Mayor Pro Tem Bergman, Mayor Price*

Absent: *None*

Staff Present: *City Manager/Police Chief Pietro, City Attorney Terpstra, City Clerk Del Real, Recording Secretary Bengtson-Jennings*

CLOSED SESSION: (Conference Room A)

Mayor Price invited public comments on Closed Session items.

No one came forward to speak at this time.

Mayor Price adjourned the meeting to Conference Room A for Closed Session at 5:02 PM. Closed Session was called to order at 5:05 PM.

Conference with Legal Counsel – Anticipated Litigation – Government Code Section 54956.9(b): Number of cases: (1)

Pursuant to Government Code Section 54956.8, Conference with Real Property Negotiator regarding Property Disposition. Agency Negotiator: Community Development Director McBride

Property Locations: APN 005-070-032
APN 001-130-015

Closed Session adjourned at 5:45 PM.

REGULAR SESSION: (Council Chambers)

The City Council of the City of Atwater met in Regular Session this date at 6:00 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Mayor Price presiding.

PLEDGE OF ALLEGIANCE TO THE FLAG:

The Pledge of Allegiance was led by Mayor Price.

INVOCATION:

The Invocation was led by Police Chaplain McClellan.

ROLL CALL:

Present: City Council Members Raymond, Rivero, Vineyard, Mayor Pro Tem Bergman, Mayor Price

Absent: None

Staff Present: City Manager/Police Chief Pietro, City Attorney Terpstra, CAL FIRE Battalion Chief Pimentel, Police Lieutenant Joseph, Community Development Director McBride, Interim Public Works Director Faretta, Finance Director Deol, City Clerk Del Real, Recording Secretary Bengtson-Jennings

MAYOR OR CITY ATTORNEY REPORT OUT FROM CLOSED SESSION:

City Attorney Terpstra reported that no action was taken and staff was given direction. The Closed Session agenda was completed.

SUBSEQUENT NEED ITEMS: *None.*

APPROVAL OF AGENDA AS POSTED OR AS AMENDED:

MOTION: *Mayor Pro Tem Bergman moved to approve the agenda as posted. The motion was seconded by City Council Member Rivero and the vote was: Ayes: Bergman, Vineyard, Raymond, Rivero, Price; Noes: None; Absent: None. The motion carried.*

PRESENTATIONS:

Monthly verbal report by Merced County District 3 Supervisor McDaniel

Merced County District 3 Supervisor McDaniel reported on several items:

- ***The Merced County Housing Element Update is being completed. A study session with their Planning Commission is scheduled for Wednesday, February 10, 2016 and with their Board of Supervisors March 1, 2016.***
- ***Merced County is moving forward with three community plan updates in the communities of Planada, Le Grand, and Winton.***
- ***Merced County is taking steps to privatize Castle, with seven more private property sales in the pipeline and another potential sale on the Board's agenda tomorrow.***
- ***Merced County is working to secure funding to jump start the Black Rascal Creek Flood Control Project for the purpose of preventing future floods in the Atwater/Merced area.***
- ***Construction 1A of the Atwater/Merced Expressway is almost complete. A ribbon cutting ceremony is scheduled for March.***

Supervisor McDaniel encouraged all citizens to sign up for the Merced County Emergency Notification System. In the event of an emergency, critical communications/notifications will be shared via telephone, FAX, email, text, etc. The service is free. Citizens may sign up at www.co.merced.ca.us/alert.

Supervisor McDaniel reminded the community of his Atwater mobile office hours which are the fourth Thursday of each month from 1:30 - 3:30 PM in the City Council Chambers. During office hours, Supervisor McDaniel is joined by representatives from the Atwater City Council and the offices of Congressman Costa, Senator Canella, and Assemblyman Gray. Everyone is welcome to attend: to share opinions, discuss subjects, ask questions, and relay concerns.

Supervisor McDaniel invited the public to attend the upcoming Peace Makers, Peace Keepers, and our Defenders event at Castle on May 14, 2016 to honor all veterans, active military, police, and fire personnel.

City Council Member Vineyard thanked Supervisor McDaniel for using his Supervisor discretionary funds to repair the leaking roof at Veterans Hall in Atwater.

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

GARY BRICE, Atwater, questioned the ability of businesses collecting/selling cell phones in the middle of parking lots without approval of the Community

Development and Resources Commission or the City Council and without paying the proper business license fees.

Mayor Price stated that he believes it is the government free phone program doing business in Atwater and asked City Manager Pietro to look into the matter.

ERIC LEE, Atwater, voiced his concerns with the increased gang activity in the City and encouraged the City Council to take affirmative action to solve the problem such as holding property owners or landlords accountable for gang/drug related activities on their premises.

JEANIE KNIGHT, Atwater, voiced similar concerns and questioned if the City can charge the property owners/landlords for Police Officer response to their homes. She asked why the cover was never placed over the "In God We Trust" sign in the City Council Chambers.

City Attorney Terpstra stated that upon City Council direction, staff will look into the possibility of charging property owners/landlords for Police Department calls to their homes.

LINDA DASH, Atwater, suggested City Attorney Terpstra contact the City of Merced attorney regarding Merced's ordinance that addresses property owners' and landlords' rights/responsibilities concerning gang and drug activities on their premises.

MIKE RAYMOND, Atwater, mentioned that Tulare County recently enacted its third gang injunction against three cities in their County, which seems effective in clearing the problem.

No one else came forward to speak.

CONSENT CALENDAR:

MOTION: *Mayor Pro Tem Bergman moved to approve the consent calendar as listed. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Raymond, Vineyard, Bergman, Rivero, Price; Noes: None; Absent: None. The motion carried.*

WARRANTS:

1. February 8, 2016

ACTION: *Approval of warrants as listed.*

MINUTES: (City Council)

2. Regular meeting, January 25, 2016

ACTION: Approval of minutes as listed.

MINUTES: (Commissions)

3. Community Development and Resources, December 16, 2015

ACTION: Acceptance of minutes as listed.

CALL FOR BIDS/RFPS:

4. Authorizing Request for Proposals for Urban Forest Master Plan and Canopy Coverage Analysis (Interim Public Works Director Faretta)

ACTION: Approval of Request for Proposals for Urban Forest Master Plan and Canopy Coverage Analysis for FY 2014/15, CAL FIRE Urban Forestry Greenhouse Gas Reduction Fund Grant Program (GGRF).

AGREEMENTS:

5. Approving Amendment No. 7 to Professional Services Agreement with West Yost Associates for engineering services related to the permitting and regulatory requirements pertaining to the former Wastewater Treatment Facility, the existing Regional Wastewater Treatment Plant, and the Bert Crane Road Landfill (Interim Public Works Director Faretta)

ACTION: Approval of Amendment No. 7 to the Professional Services Agreement, in a form approved by the City Attorney, between the City of Atwater and West Yost Associates of Davis, California in an amount not to exceed \$246,420 during Fiscal Year 2015-2016, to provide technical assistance for engineering services related to the permitting and regulatory requirements associated with the City's former Wastewater Treatment Facility (WWTF), existing Regional Wastewater Treatment Plant (RWWTP), and the Bert Crane Road Landfill; and authorizes and directs the Mayor to execute the amendment on behalf of the City.

REPORTS:

6. Monthly review of local drought emergency (City Attorney Terpstra)

ACTION: Reaffirms the facts and findings in Resolution No. 2823-15 declaring the existence of a local drought emergency.

INFORMATIONAL ITEMS ONLY (NO ACTION REQUIRED):

7. Police Department activities and projects for the month of January, 2016 (Police Lieutenant Joseph)

8. Police Volunteer activities for the month of January, 2016 (Police Volunteer Vineyard)
9. Fire Department activities and projects for the month of January, 2016 (CAL FIRE Battalion Chief Pimentel)
10. Public Works Department activities and projects for the month of January, 2016 (Interim Public Works Director Faretta)

CITY MANAGER REPORTS:

Selecting lettering style and color for the “In God We Trust” sign in front of City Hall

Mayor Pro Tem Bergman spoke regarding the public forum held last week and announced a unanimous decision: 12” injection molded Helvetica lettering in Metallic Gold; the sign to be placed above the door.

City Council Member Vineyard corrected for the record that it was not a unanimous decision; at least two people in attendance tried to speak but were ignored. He stated that his wife, who has a 180 degree difference in opinion than he concerning this subject (she does not believe “In God We Trust” should be displayed at City Hall) and who went to the public forum to speak on her own behalf, left in frustration when ignored.

Mayor Pro Tem Bergman clarified for the record that the specific purpose of the public forum was to select the style and color of lettering and the placement of the “In God We Trust” sign in front of City Hall, and he thanked Mike and Pam Raymond for their generous donation toward the project.

MOTION: Mayor Pro Tem Bergman moved to approve 12” injection molded Helvetica lettering with the color #2756 Metallic Gold for the “In God We Trust” sign to be placed above the door to City Hall. The motion was seconded by City Council Member Raymond and the vote was: Ayes: Bergman, Rivero, Raymond, Price; Noes: Vineyard; Absent: None. The motion carried.

REPORTS AND PRESENTATIONS FROM STAFF:

Reviewing Fiscal Year 2015-16 mid-year budget and adopting a resolution approving a budget amendment regarding certain adjustments based on mid-year budget analysis (Finance Director Deol)

Finance Director Deol reported on the Fiscal Year 2015-16 mid-year budget and stated that the schedule presented includes all of the proposed adjustments.

City Council Member Rivero stated for the record that the increase in building permit fees looks good, but there is a cost associated with additional building

such as the use of more water, an increase in sewage, wear and tear on the streets, etc.

ERIC LEE, Atwater, spoke regarding the proposed shift of funding for three Police Officers from the Community Facilities District to Measure H. He questioned the purpose of Measure H funding, which he thought was to augment and not supplant the General Fund. He asked for clarification before he chairs next month's Citizen's Oversight Committee for Public Safety Transactions and Use Tax meeting.

LINDA DASH, Atwater, questioned the proposed City Council salaries and wages expenditure line item believing that all City Council members were presently waiving their rights to a monthly stipend.

Mayor Price stated that City Council Member Rivero has elected to receive a monthly stipend.

MOTION: *Mayor Pro Tem Bergman moved to adopt Resolution No. 2876-16 approving Budget Amendment No. 7 regarding revenue and expenditure adjustments based on mid-year budget analysis. The motion was seconded by Mayor Price and the vote was: Ayes: Bergman, Vineyard, Price; Noes: Raymond, Rivero; Absent: None. The motion carried.*

Mayor Price called a recess at 6:55 PM.

The City Council returned to the dais and Mayor Price resumed the meeting at 7:04 PM.

Adopting a resolution designating an all way stop at Olive Avenue and Winton Way (Community Development Director McBride)

DON HYLER, Atwater, spoke in favor of the proposed resolution stating the dangers of congested traffic in this area.

Mayor Price stated for the record that the installation of all way stop signs at Olive Avenue and Winton Way will create an inconvenience; however, this location will present a risk to the City if left as is.

MOTION: *Mayor Price moved to adopt Resolution No. 2875-16 designating an all way stop at Olive Avenue and Winton Way. The motion was seconded by City Council Member Vineyard and the vote was: Ayes: Vineyard, Rivero, Bergman, Price; Noes: Raymond; Absent: None. The motion carried.*

Awarding a Cooperative Purchase for one (1) new 2016 fire command vehicle (CAL FIRE Battalion Chief Pimentel)

MOTION: Mayor Price moved to award a cooperative purchase, in a form approved by the City Attorney, to purchase one (1) new 2016 fire command vehicle from Elk Grove Auto of Elk Grove, California in an amount not to exceed \$40,666.43 as amended, contingent upon the hiring of a Fire Marshal; and to authorize and direct the City Manager to execute the purchase order on behalf of the City. The motion was seconded by City Council Member Vineyard and the vote was: Ayes: Bergman, Vineyard, Raymond, Price; Noes: Rivero; Absent: None. The motion carried.

CITY COUNCIL MATTERS:

City Council comments and requests for future agenda items

City Council Member Vineyard reminded the community that February 15, 2016 is President's Day. City Hall will be closed, and trash pick-up will be delayed one day. He announced that Spring Clean-Up Day is March 19, 2016 from 7:00 AM – 2:00 PM across the street from the City's Corporation Yard on Aviator Drive.

City Council Member Raymond again asked City Manager Pietro to look into the possible adoption of the opengov.com system, a financial transparency system for state and local governments. To ensure adequate funding, he requested that staff prepare a policy granting the City Council authority to approve the hiring or fulfillment of staff positions.

City Council Member Rivero wished his wife an early Happy Valentine's Day.

Mayor Pro Tem Bergman expressed concerns of the public in regard to the flags displayed in the City Council Chambers and asked that staff research flag etiquette and ensure their proper care. He asked that staff present a comparison of Robert's and Rosenberg's Rules of Order (rules of parliamentary procedure) for City Council consideration.

Mayor Price announced that the Merced County Association of Governments will meet February 18, 2016 to discuss the proposed transportation plan, a ½ cent County wide sales tax ballot initiative to fix problem streets, and he encouraged everyone to attend. He announced that the next Town Hall meeting is February 25, 2016 at 6:00 PM at the Atwater Community Center; he invited public input regarding budgetary matters at this meeting as well as at the upcoming budget workshops yet to be determined. He reminded citizens to be careful when watering; the drought still exists. He expressed his disappointment with local news coverage of the City of Atwater, barring the Atwater Times, and called it "inadequate," "irresponsible," and "tabloid journalism."

CLOSED SESSION:

Continuation of Closed Session was not necessary.

ADJOURNMENT:

The meeting adjourned at 7:41 PM.

JEANNA DEL REAL, CMC
CITY CLERK

By: Kim Bengtson-Jennings,
Recording Secretary



CITY OF ATWATER

SPECIAL MEETING CITY COUNCIL

ACTION MINUTES

February 25, 2016

CALL TO ORDER:

The City Council of the City of Atwater met in special session this date at 6:05 PM in the Jesse Frago Room of the Atwater Community Center located at 760 E. Bellevue Road, Atwater, California; Mayor Price presiding.

ROLL CALL:

Present: *City Council Members Raymond, Rivero, Vineyard, Mayor Price*

Absent: *Mayor Pro Tem Bergman*

Staff Present: *City Manager/Police Chief Pietro, Community Development Director McBride, Finance Director Deol, Interim Public Works Director Faretta, Police Lieutenant Joseph, CAL FIRE Fire Captain Ayuso, Code Enforcement Officer Velazquez-Magana, Recreation Supervisor Barton*

PUBLIC COMMENT:

Notice to the public was read.

No one came forward to speak at this time.

BUSINESS:

A Town Hall meeting was conducted to provide an opportunity for the public to voice concerns, ask questions, and provide input to the City Council and staff regarding matters of concern within the community. Since the Town Hall meeting was for informational purposes only, no actions were taken.

ADJOURNMENT:

The meeting adjourned at 7:35 PM.

JEANNA DEL REAL, CMC
CITY CLERK



CITY OF ATWATER

COMMUNITY DEVELOPMENT AND RESOURCES COMMISSION

ACTION MINUTES

January 20, 2016

CALL TO ORDER:

The City of Atwater Community Development and Resources Commission met in Regular Session this date at 6:05 PM in the City Council Chambers located at the Atwater Civic Center, 750 Bellevue Road, Atwater, California; Chairperson Brice presiding.

PLEDGE OF ALLEGIANCE TO THE FLAG:

The Pledge of Allegiance was led by Chairperson Brice.

INVOCATION:

The Invocation was led by Police Chaplain Motz.

ROLL CALL:

Present: Commissioners Brice, Dash, Hylar III, McWatters, Murphy III, Reed,
Absent: Daugherty
Staff Present: Police Lieutenant Joseph, Community Development Director McBride, Interim Public Works Director Faretta, Recreation Supervisor Barton, Senior Planner Hendrix, Recording Secretary Mead.
Staff Absent: None

CEREMONIAL MATTERS:

The Oath of Office was read by Recording Secretary Mead and the following commissioner was ceremonially sworn into office: Mary McWatters.

COMMUNITY DEVELOPMENT AND RESOURCES COMMISSION ORGANIZATION

Chairperson Brice opened the nomination period for the purposes of nominating a Chairperson and Vice Chairperson for the 2016 calendar year.

Commissioner Dash nominated Commissioner Brice for Chairperson for the 2016 calendar year.

No other nominations were expressed.

MOTION: *Commissioner Dash moved to appoint Gary Brice for Chairperson. The motion was seconded by Commissioner Hyler III and the vote was: Ayes: Dash, Hyler III, McWatters, Murphy III and Reed. Noes; None Absent: Daugherty The motion carried.*

Commissioner McWatters nominated Commissioner Hyler III for Vice Chairperson for the 2016 calendar year.

No other nominations were expressed.

MOTION: *Commissioner McWatters moved to appoint Don Hyler III for Vice Chairperson. The motion was seconded by Commissioner Dash and the vote was: Ayes: Dash, McWatters, Murphy III and Reed. Noes; None Abstained: Hyler III, Absent: Daugherty. The motion carried.*

COMMENTS FROM THE PUBLIC:

Notice to the public was read.

MINUTES:

Regular Meeting, December 16, 2015

MOTION: *Commissioner Dash moved to approve the minutes with the (typographical) correction. The motion was seconded by Commissioner Reed and the vote was: Ayes: Brice, Dash, Hyler III, McWatters, Murphy III, Reed; Noes: None; Absent: Daugherty. The motion carried.*

REPORTS AND PRESENTATIONS FROM STAFF

Removal and Replacement of Non-ADA compliant playground equipment at Ralston Park.

Interim Public Works Director Faretta came forward to seek approval for the removal of the existing playground equipment on the eastern portion of Ralston

provided an overview on the existing equipment. He reported the concrete curb surrounding the area around the 2-5 year old playground does not allow access into the playground except for a small blue ramp. Interim Director Faretta proposes the following: removal of the concrete curb, removal of the small ramp, keep and add to the existing wood fibers, and keep some of the existing equipment within the area. He explained the proposed changes will include new flush curbing and new playground equipment. He further reported the changes will comply with ADA regulations.

MOTION: *Commissioner Dash moved to accept the report by Interim Public Works Director Faretta. (Approve Staff's Recommendation as presented.) The motion was seconded by Commissioner Murphy III and the vote was: Ayes: Brice, Dash, Hyler III, McWatters, Murphy III, Reed; Noes: None; Absent: Daugherty. The motion carried.*

Verbal update regarding the building permit and status of 480 Broadway Avenue, Creamery Building conversion to Assembly Use.

Chief Building Official Mark Pereida reported on the above project and confirmed the structure permit was obtained from the City of Atwater. He explained the reasons for the delays associated with the project and provided a brief overview of the structure enhancements needed (additional concrete and steel gussets) to reinforce the structure to be a seismic stable structure. Chief Building Official Pereida mentioned the work is being completed by volunteers thus the project will be slow to complete. He further reported the project has not obtained permits for electrical, mechanical or plumbing.

Verbal update regarding the Building Permit status of 587 Atwater Blvd, formerly Keney Home Center for Gun Range.

Chief Building Official Mark Pereida reported the Atwater City Planning and Building Division has not received plans as of January 20, 2016.

Verbal update regarding the building permit status on the conversion of Motel into Apartments located at 1869 Atwater Boulevard.

Chief Building Official Mark Pereida reported permits were obtained two and half years ago to start the conversion process. He reported the property owner is in the last portion of re-doing the electrical system from one meter to multiple meters. Chief Building Official Pereida further reported PG&E is requiring more excavation for more lines. He explained that once the property is cleared by PG & E, the green tags will be issued and finals will begin on the Apartments.

Verbal update – review of Zoning Code related to Garage Sales

Community Development Director Scott McBride provided an overview of the current policies regarding Garage Sales within the City of Atwater. He reported in 2012 the City Council took action on ordinance CS926 to modify the procedures and timing of Garage Sales; Garage Sales are now chaptered as 1707 in the Zoning Code. Director McBride provided the specific days and times citizens are allowed to conduct Garage Sales. Garage Sales are allowed the First and Third Weekend monthly, on Friday, Saturday, Sunday between dawn and 4:00 P.M. Director McBride mentioned he has spoken with City Manager Pietro and the new Code Enforcement Officer will be enforcing the code.

(Lt Joseph introduced Code Enforcement Velazquez).

Code Enforcement Officer Velazquez provided a brief overview of his service qualifications and welcomed commissioner's questions and/or suggestions to work on code enforcement issues. He addressed questions from the commissioners and shared he has approval to adjust his schedule to address the Garage Sale violations. Code Enforcement Officer Velazquez also reported he will be enforcing the sign ordinance and a new ordinance with regards to the clothing collection bins.

COMMISSIONER MATTERS

Comments from Community Development and Resources Commissioners

Commissioner Reed – None

Commissioner Murphy requested an update with regards to the phone awnings around town providing free phones and inquired with Interim Public Works Director Faretta about the reported street depressions on High Street and Fir Avenue.

Commissioner McWatters welcomed the Code Enforcement Officer to the City of Atwater and reported garage sale participants are conducting sales as a business.

Commissioner Hyler III recognized the efforts of the new Code Enforcement Officer and thanked him for his service. Hyler III asked about placing a stop sign at Drakeley Avenue and Sierra Vista. Community Development Director McBride will refer the item to the project list.

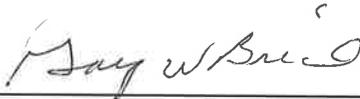
Commissioner Brice inquired if the garage sale ordinance can be changed back to the place original wording of "two per year". LT Joseph reassured the commissioners the Code Enforcement Officer will be addressing the garage sale issues.

Commissioner Dash inquired if the Code Enforcement Officer is aware of the clothing collection bins and the unsightly signage around town. She also addressed concerns with Interim Public Works Director Faretta about a backfilled depression in the roadway at 5th Street at Quince Avenue and Mulberry Avenue with cones sticking up. Faretta mentioned he will address the concern on Thursday, January 21, 2016.

ADJOURNMENT:

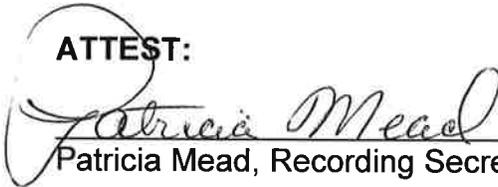
The meeting adjourned at 7:00 PM.

APPROVED:



Chairperson Brice

ATTEST:


Patricia Mead, Recording Secretary

January 26, 2016

Honorable Mayor and Members
of the Atwater City Council

City Council Meeting
of March 14, 2016

**RESOLUTIONS CONSENTING TO INCLUSION OF THE CITY OF
ATWATER PROPERTIES IN THE CALIFORNIA HOME FINANCE
AUTHORITY PACE PROGRAMS (SB555) AND ASSOCIATE
MEMBERSHIP IN CALIFORNIA HOME FINANCE AUTHORITY (AB 811)**

RECOMMENDATION:

It is recommended that the City Council consider:

1. Adopting Resolution No. 2873-16 consenting to inclusion of properties within the City's Jurisdiction in the California Home Finance Authority Community Facilities District No. 2014-1 (Clean Energy) to finance renewable energy improvements, energy efficiency and water conservation improvements and electric vehicle charging infrastructure and approving Associate Membership in the Joint Exercise of Powers Authority related thereto (SB 555); and
2. Adopting Resolution No. 2874-16 consenting to inclusion of properties within the City's Jurisdiction in the California Home Finance Authority, program to finance renewable energy generation, energy and water efficiency improvements and electric vehicle charging infrastructure and approving Associate Membership in the Joint Exercise of Powers Authority related thereto (AB 811); and
3. Authorizing and directing the City Manager to execute any documents relating to participation, on behalf of the City.

BACKGROUND:

California Home Finance Authority ("CHF"), which is in the process of formally changing its name to Golden State Finance Authority, is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the "Act") and the Joint Power Agreement entered into on July 1, 1993, as amended from time to time (the "Authority JPA").

CHF has established two Property Assessed Clean Energy ("PACE") financing programs for residential, commercial, industrial and agricultural properties to address high up-front costs for property owners who wish to improve their properties through installation of measures that will generate renewable energy or reduce their energy and water use. By offering low cost financing, CHF's PACE programs allow construction of these projects to proceed and, in the process, stimulate building activity and the overall local economy, reduce peak energy demand, increase property values, and generate savings on utility bills for property owners.

CHF contracts with Ygrene Energy Fund CA LLC (YGRENE) to serve as the program administrator and to operate the Ygrene Works for California PACE financing program.

PACE Financing Programs

CHF has established two PACE programs under the legislative authority of two separate California PACE laws:

SB 555 PACE Community Facilities District: Senate Bill 555 amended the Mello-Roos Community Facilities Act, set forth in sections 53311 through 53368.3 of the California Government Code and particularly in accordance with sections 53313.5(l) and 53328.1(a) (“Mello-Roos Act”), to allow for the creation of Community Facilities Districts (“CFDs”) for the purpose of financing or refinancing the acquisition, installation, and improvement of energy efficiency, water conservation, renewable energy and electric vehicle charging infrastructure improvements permanently affixed to private or publicly-owned real property.

Individual properties can be annexed into the district and be subject to the special tax that is imposed to repay project financing only if (i) the Council adopts a resolution consenting to the inclusion of parcels in the incorporated areas of the City within the CFD and (ii) each participating owner provides its unanimous written approval for annexation of its property into the PACE CFD.

AB 811 PACE Contractual Assessment Program: By the passage of Assembly Bill 811, the California State Legislature added Chapter 29 to the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code. This legislation authorized cities and counties to establish voluntary contractual assessment programs for the purpose financing private property improvements that promote renewable energy generation, energy and water efficiency and electric vehicle charging infrastructure.

As with the SB 555 CFD, properties can be annexed into the AB 811 PACE program and be subject to the property tax assessment that is imposed to repay project financing only if (i) the Council adopts a resolution consenting to the inclusion of parcels in the incorporated areas of the City within the program and (ii) each participating owner consents in writing to the annexation of its property into the PACE program.

In November 2013, the City of Atwater adopted Resolution No. 2735-13, approving participation in another PACE program (HERO Program). Adding the CHF PACE programs, to be administered by Ygrene, provides more options for City property owners. It will not add to or require any additional responsibilities for the City.

JPA Associate Membership

To participate in the PACE programs, the City must become an Associate Member of CHF (JPA Agreement attached). Associate membership requires no dues or other costs

to the City, but permits participation in all CHF programs including the PACE program. The attached resolutions approve joining the JPA as an Associate Member. Pursuant to the JPA Agreement and CHF Board Resolution 15-01, the Executive Director has the authority to approve the addition of new Associate Members to the JPA.

Program Authorization Being Sought

CHF sought and has completed the process of validation for both the SB 555 and the AB 811 programs in the Superior Court for the County of Sacramento. As of August 25, 2015, the CHF SB 555 PACE program is fully operational. Although CHF is implementing only the SB 555 PACE program at this time, CHF chose to form, validate and maintain both the SB 555 and AB 811 programs offerings to ensure that the "Ygrene Works for California" program remains the most innovative, cost effective and most secure PACE program in the state.

Should market conditions, consumer demand and/or legislative changes affect one PACE program more than another, CHF has the flexibility to offer the program that best supports CHF's vision of service without any interruption to participating counties and cities and their property owners. CHF intends to maximize the benefits of both program offerings.

ANALYSIS:

In support of CHF's approach, the City Council is being asked to pass two resolutions that would approve the following actions:

The first resolution authorizes the City to join the JPA as an Associate Member and permits property owners within the incorporated areas of the City to participate in the CHF SB 555 Community Facilities District. The JPA has been reviewed by the City Attorney's Office.

The second resolution authorizes the City to join the JPA as an Associate Member and permits property owners within the incorporated areas of the City to participate in the CHF AB 811 Authority PACE Program. The Agreement has been reviewed by the City Attorney's office.

Each resolution also authorizes CHF (1) to accept applications from property owners within the City's incorporated area to finance authorized improvements; and (2) to conduct proceedings and levy special taxes or contractual assessments, as applicable, on the property of participating owners. An Indemnification and Insurance Agreement between the City of Atwater and YGRENE Energy Fund CA, LLC (Exhibit "A") has also been suggested and reviewed by the City Attorney's office.

Cities and counties that have approved the Ygrene Works program to date have adopted both resolutions. Authorizing both programs ensures that no matter the market or legislative environment for PACE, the Ygrene Works program will be established and able to operate successfully in your city without the need for additional review or the

need for the City Council to consider approving another resolution thereby saving valuable staff time and resources.

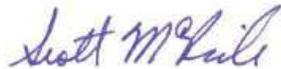
FISCAL IMPACT:

The City will incur no financial obligations as a result of program participation.

CONCLUSION:

This staff report is submitted for City Council consideration and possible action.

Respectfully submitted,



Scott McBride
Community Development Director

**INDEMNIFICATION AND INSURANCE AGREEMENT
BY AND BETWEEN
THE CITY OF ATWATER
AND
YGRENE ENERGY FUND CA, LLC**

This Indemnification and Insurance Agreement (“Agreement”) is entered into by and between the City of Atwater, a municipal corporation (“City” or “Indemnitee”) and Ygrene Energy Fund CA, LLC, a California limited liability company (“Administrator” or “Indemnitor”), the administrator of the California Home Finance Authority’s PACE Program and the California Home Finance Authority’s Community Facilities District No. 2014-1 (Clean Energy). City and Administrator shall be referred to herein separately as a “Party” and collectively as “Parties”.

RECITALS

WHEREAS, the California Home Finance Authority (“Authority”) is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the California Government Code (Section 6500 et. seq.) and the Joint Exercise of Powers Agreement entered into on July 1, 1993, as amended from time to time (“Authority JPA”); and

WHEREAS, the Authority is in the process of amending the Authority JPA to formally change its name to the Golden State Finance Authority; and

WHEREAS, the Authority has established a property-assessed clean energy (“PACE”) Program (“Authority PACE Program”) to provide for the financing of renewable energy generation, energy and water efficiency improvements, and electric vehicle charging infrastructure (the “Improvements”) pursuant to Chapter 29 of Division 7 of the California Streets and Highways Code (“Chapter 29”), within counties and cities throughout the State of California that elect to participate in the Program; and

WHEREAS, in addition, the Authority has established the Community Facilities District No. 2014-1 (Clean Energy) in accordance with the Mello-Roos Community Facilities Act, set forth in sections 53311 through 53368.3 of the California Government Code (“Act”) and particularly in accordance with sections 53313.5(l) and 53328.1(a) (“District”); and

WHEREAS, the City Council of the City of Atwater has approved the City joining the Authority, has consented to the inclusion in the Authority PACE Program of all of the properties in the jurisdictional boundaries of the City and to the acquisition, construction, and installation of the Improvements, upon the request by and voluntary agreement of owners of such properties, in compliance with the laws, rules and regulations applicable to the Program, and has consented to the inclusion in Community Facilities District No. 2014-1 (Clean Energy) of all of the properties in the City’s jurisdiction and to the construction and installation of the Authorized Improvements, upon the request of and execution of the Unanimous Approval Agreement by the owners of such properties when such properties are annexed, in compliance with the laws, rules and regulations applicable to the District; and

WHEREAS, the Authority and the Administrator have entered into a Third Party Administration Agreement (“Administration Agreement”), dated March 2015, in which the Administrator agrees to administer the Authority PACE Program and/or Community Facilities District No. 2014-1 (Clean Energy) on behalf of the Authority; and

WHEREAS, the Administrator agrees to indemnify the City and to provide insurance in connection with the administration of the Authority PACE Program and/or Community Facilities District No. 2014-1 (Clean Energy) in the City of Atwater.

NOW, THERFORE, in consideration of the Recitals above and of the City’s agreement to join the Authority and to participate in the Authority’s PACE Program and/or Community Facilities District No. 2014-1 (Clean Energy), the Parties agree as follows:

AGREEMENT

1. Performance of the Administration Agreement. Administrator shall, at their sole cost and expense, fulfill and perform all terms and conditions required of the Administrator under the Administration Agreement. City shall have no obligations, financial or otherwise, to assist in the fulfillment or performance of any term or condition of the Administration Agreement.

2. Agreement to Indemnify. The Administrator agrees to defend, indemnify, and hold harmless the City, its officers, elected or appointed officials, employees, agents, and volunteers from and against any and all claims, damages, losses, expenses, fines, penalties, judgments, demands, and defense costs (including, without limitation, actual, direct, out-of-pocket costs and expenses, and amounts paid in compromise or settlement and reasonable outside legal fees arising from litigation of every nature or liability of any kind or nature including civil, criminal, administrative or investigative) arising out of or in connection with the Authority’s PACE Program or Community Facilities District No. 2014-1 (Clean Energy), except such loss or damage which was caused by the gross negligence or willful misconduct of the City. The Administrator will conduct all defenses at its sole cost and expense, and the City shall reasonably approve selection of the Administrator’s counsel. This indemnity shall apply to all claims and liability regardless of whether any insurance policies of the Administrator, its affiliates, or any other parties are applicable thereto. The policy limits of any insurance of the Administrator, its affiliates, or other parties are not a limitation upon the obligation of the Administrator, including without limitation, the amount of indemnification to be provided by the Administrator. The provisions of this Section shall survive the termination of this Agreement.

3. Term. This Agreement shall remain in full force and effect until the Administration Agreement is terminated, or all obligations required by Administrator under the terms of the Administration Agreement have been fulfilled, whichever is later.

4. Insurance. The Administrator agrees that, at no cost or expense to the City, at all times during the administration of the Authority’s PACE Program and Community Facilities District No. 2014-1 (Clean Energy), to maintain the insurance coverage set forth in Exhibit “A” to this Agreement.

5. Amendment/Interpretation of this Agreement. This Agreement, including all Exhibits attached hereto, 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. No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing by both Parties hereto. This Agreement shall not be interpreted for or against any Party by reason of the fact that such Party may have drafted this Agreement or any of its provisions.

6. Section Headings. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

7. Waiver. No waiver of any of the provisions of this Agreement shall be binding unless in the form of a writing signed by the Party against whom enforcement is sought, and no such waiver shall operate as a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver. Except as specifically provided herein, no failure to exercise or any delay in exercising any right or remedy hereunder shall constitute a waiver thereof.

8. Severability and Governing Law. If any provision or portion thereof of this Agreement shall be held by a court of competent jurisdiction to be invalid, void, or otherwise unenforceable, the remaining provisions shall remain enforceable to the fullest extent permitted by law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California applicable to contracts made and to be performed in California.

9. Costs of Enforcement. Should any suit or action be brought by either Party to enforce any of the provisions of this Agreement, the prevailing party shall be entitled to recover all costs, including, reasonable attorney's fees, in addition to any other recovery.

10. Notices. All notices, demands and other communications required or permitted hereunder shall be made in writing and shall be deemed to have been duly given if delivered by hand, against receipt, or mailed certified or registered mail and addressed as follows:

If to the Administrator: Bart Van Voorhis
Executive Vice President
Ygrene Energy Fund CA, LLC
815 5th Street, Suite 100
Santa Rosa, CA 95404

If to the City: Jeanna Del Real
City Clerk
City of Atwater
750 Bellevue Road
Atwater, CA 95301

11. Relationship of Parties. This Agreement shall be construed to create only the relationship of Indemnitor and Indemnitee, and specifically, but without limitation, shall not create a partnership, employment, joint venture, or other agency relationship.

12. Binding Effect. This Agreement is binding on the successors and assigns of the Parties.

13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, which together shall constitute the same instrument.

14. Effective Date. This Agreement will be effective as of the date of the signature of City's representative as indicated below in the City's signature block.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement as of the date first written below.

CITY

ADMINISTRATOR

CITY OF ATWATER

YGRENE ENERGY FUND CA, LLC

By: _____
James E. Price, Mayor

By: _____
Stacey Lawson, President/CEO

Date: _____

Date: _____

APPROVED AS TO FORM:

Thomas H. Terpstra
City Attorney

EXHIBIT A
INSURANCE

A. Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. The coverage provided by Insurance Services Office Commercial General Liability coverage (“occurrence”) Form Number CG 0001; and
2. The coverage provided by Insurance Services Office Form Number CA 0001 covering Automobile Liability. Coverage shall be included for all owned, non-owned and hired automobiles; and
3. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance; and
4. Professional Liability Errors & Omissions for all professional services.

There shall be no endorsement reducing the scope of coverage required above unless approved by the City’s Risk Manager.

B. Minimum Limits of Insurance

Administrator shall maintain limits no less than:

1. Commercial General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and
3. Workers’ Compensation and Employers Liability: Workers’ Compensation limits as required by the California Labor Code and Employers Liability limits of \$1,000,000 per accident; and
4. Professional Liability Errors & Omissions \$1,000,000 per occurrence / aggregate limit. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

C. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by the City’s Risk Manager. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its officers, employees, agents and contractors; or Administrator shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City’s Risk Manager.

D. Other Insurance Provisions

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

1. Commercial General Liability and Automobile Liability Coverages.

- a. City of Atwater, its officers, employees, agents, and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of Administrator; products and completed operations of Administrator; premises owned, leased, or used by Administrator; and automobiles owned, leased, hired or borrowed by Administrator. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, employees, agents, and contractors.
- b. Administrator's insurance coverage shall be primary insurance as respects the City, its officers, employees, agents, and contractors. Any insurance or self-insurance maintained by City, its officers, employees, agents, or contractors shall be excess of Administrator's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies by Administrator shall not affect coverage provided to the City, its officers, employees, agents, or contractors.
- d. Coverage shall state that Administrator'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 insurer's liability.
- e. Coverage shall contain a waiver of subrogation in favor of the City, its officers, employees, agents, and contractors.

2. Workers' Compensation and Employers' Liability.

Coverage shall contain waiver of subrogation in favor of City, its officers, employees, agents, and contractors.

3. All Coverages.

Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, or reduced in limits except after thirty (30) days' prior written notice has been given to the City, except that ten (10) days' prior written notice shall apply in the event of cancellation for nonpayment of premium.

E. Acceptability of Insurers.

Insurance is to be placed with insurers acceptable to the City's Risk Manager.

F. Verification of Coverage.

Administrator shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this Agreement. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be either emailed in pdf format to: jdelreal@atwater.org or mailed to the following postal address or any subsequent address as may be directed in writing by the City's Risk Manager:

Jeanna Del Real
Risk Manager
City of Atwater
750 Bellevue Road
Atwater, CA 95301

G. Subcontractors

Administrator shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor.



CITY COUNCIL OF THE CITY OF ATWATER

RESOLUTION NO. 2873-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATWATER AUTHORIZING INCLUSION OF PROPERTIES WITHIN THE CITY'S JURISDICTION IN THE CALIFORNIA HOME FINANCE AUTHORITY COMMUNITY FACILITIES DISTRICT NO. 2014-1 (CLEAN ENERGY) TO FINANCE RENEWABLE ENERGY IMPROVEMENTS, ENERGY EFFICIENCY AND WATER CONSERVATION IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND APPROVING ASSOCIATE MEMBERSHIP IN THE JOINT EXERCISE OF POWERS AUTHORITY RELATED THERETO (SB 555)

WHEREAS, the California Home Finance Authority, a California joint powers authority, (the "Authority") has established the Community Facilities District No. 2014-1(Clean Energy) in accordance with the Mello-Roos Community Facilities Act, set forth in sections 53311 through 53368.3 of the California Government Code (the "Act") and particularly in accordance with sections 53313.5(l) and 53328.1(a) (the "District"); and

WHEREAS, the purpose of the District is to finance or refinance (including the payment of interest) the acquisition, installation, and improvement of energy efficiency, water conservation, renewable energy and electric vehicle charging infrastructure improvements permanently affixed to private or publicly-owned real property (the "Authorized Improvements"); and

WHEREAS, the Authority is in the process of amending the Authority Joint Powers Agreement (the "Authority JPA") to formally change its name to the Golden State Finance Authority; and

WHEREAS, the City of Atwater is committed to development of renewable energy generation and energy efficiency improvements, reduction of greenhouse gases, and protection of the environment; and

WHEREAS, in the Act, the Legislature has authorized a parcel within the territory of the District to annex to the District and be subject to the special tax levy of the District only (i) if the city or county within which the parcel is located has consented, by the adoption of a resolution by the applicable city council or county board of supervisors, to the inclusion of parcels within its boundaries in the District and (ii) with the unanimous written approval of the owner or owners of the parcel when it is annexed (the "Unanimous Approval Agreement"), which, as provided in section 53329.6 of the Act, shall constitute the election required by the California Constitution; and

WHEREAS, the City wishes to provide innovative solutions to its property owners to achieve energy efficiency and water conservation and in doing so cooperate with Authority in order to efficiently and economically assist property owners the City in financing such Authorized Improvements; and

WHEREAS, the Authority has established the District, as permitted by the Act, the Authority JPA, originally made and entered into July 1, 1993, as amended to date, and the City, desires to become an Associate Member of the JPA by execution of the JPA Agreement, a copy of which is attached as Exhibit "A" hereto, to participate in the programs of the JPA and, to assist property owners within the incorporated area of the City in financing the cost of installing Authorized Improvements; and

WHEREAS, the City will not be responsible for the conduct of any special tax proceedings; the levy and collection of special taxes or any required remedial action in the case of delinquencies in the payment of any special taxes in connection with the District.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Atwater:

1. Finds and declares that properties in the City's incorporated area will be benefited by the availability of the Authority CFD No. 2014-1 (Clean Energy) to finance the installation of the Authorized Improvements.
2. Consents to inclusion in the Authority CFD No. 2014-1 (Clean Energy) of all of the properties in the incorporated area within the City and to the Authorized Improvements, upon the request of and execution of the Unanimous Approval Agreement by the owners of such properties when such properties are annexed, in compliance with the laws, rules and regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority for the purposes thereof.
3. Constitutes assent to the assumption of jurisdiction by Authority for all purposes of the Authority CFD No. 2014-1 (Clean Energy) and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Authorized Improvements.
4. Approves joining the JPA as an Associate Member (incorporated by reference as **Exhibit "A"**) and authorizes the execution by appropriate City officials of any necessary documents to effectuate such membership.
5. Authorizes and directs the City Manager to coordinate with Authority staff to facilitate operation of the Authority CFD No. 2014-1 (Clean Energy) within the City, and report back periodically to this City Council on the success of such program.
6. This Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority.

The foregoing resolution is hereby adopted this 14th day of March, 2016.

AYES:

NOES:

ABSENT:

APPROVED:

JAMES E. PRICE, MAYOR

ATTEST:

**JEANNA DEL REAL, CMC
CITY CLERK**



CITY COUNCIL OF THE CITY OF ATWATER

RESOLUTION NO. 2874-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATWATER AUTHORIZING INCLUSION OF PROPERTIES WITHIN THE CITY'S JURISDICTION IN THE CALIFORNIA HOME FINANCE AUTHORITY, PROGRAM TO FINANCE RENEWABLE ENERGY GENERATION, ENERGY AND WATER EFFICIENCY IMPROVEMENTS AND ELECTRIC VEHICLE CHARGING INFRASTRUCTURE AND APPROVING ASSOCIATE MEMBERSHIP IN THE JOINT EXERCISE OF POWERS AUTHORITY RELATED THERETO

WHEREAS, the California Home Finance Authority ("Authority") is a joint exercise of powers authority established pursuant to Chapter 5 of Division 7, Title 1 of the Government Code of the State of California (Section 6500 and following) (the "Act") and the Joint Power Agreement entered into on July 1, 1993, as amended from time to time (the "Authority JPA"); and

WHEREAS, the Authority is in the process of amending the Authority JPA to formally change its name to the Golden State Finance Authority; and

WHEREAS, Authority has established a property-assessed clean energy ("PACE") Program (the "Authority PACE Program") to provide for the financing of renewable energy generation, energy and water efficiency improvements and electric vehicle charging infrastructure (the "Improvements") pursuant to Chapter 29 of the Improvement Bond Act of 1911, being Division 7 of the California Streets and Highways Code ("Chapter 29") within counties and cities throughout the State of California that elect to participate in such program; and

WHEREAS, City of Atwater (the "City") is committed to development of renewable energy generation and energy and water efficiency improvements, reduction of greenhouse gases, and protection of the environment; and

WHEREAS, in Chapter 29, the Legislature has authorized cities and counties to assist property owners in financing the cost of installing Improvements through a voluntary contractual assessment program; and

WHEREAS, the City wishes to provide innovative solutions to its property owners to achieve energy and water efficiency, and in doing so cooperate with Authority in order to efficiently and economically assist property owners within the City in financing such Improvements; and

WHEREAS, Authority has established the Authority PACE Program, which is such a voluntary contractual assessment program, as permitted by the Act, the Authority JPA, originally made and entered into July 1, 1993, as amended to date, and the City, desires to become an

Associate Member of the JPA by execution of the JPA Agreement, a copy of which is attached as Exhibit "A" hereto, to participate in the programs of the JPA and to assist property owners within the jurisdiction of the City in financing the cost of installing Improvements; and

WHEREAS, the City will not be responsible for the conduct of any assessment proceedings; the levy and collection of assessments or any required remedial action in the case of delinquencies in the payment of any assessments or the issuance, sale or administration of any bonds issued in connection with the Authority PACE Program.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Atwater:

1. This City Council finds and declares that properties in the City's incorporated area will be benefited by the availability of the Authority PACE Program to finance the installation of the Improvements.
2. This City Council consents to inclusion in the Authority PACE Program of all of the properties in the jurisdictional boundaries of the City and to the Improvements, upon the request by and voluntary agreement of owners of such properties, in compliance with the laws, rules and regulations applicable to such program; and to the assumption of jurisdiction thereover by Authority for the purposes thereof.
3. The consent of this City Council constitutes assent to the assumption of jurisdiction by Authority for all purposes of the Authority PACE Program and authorizes Authority, upon satisfaction of the conditions imposed in this resolution, to take each and every step required for or suitable for financing the Improvements, including the levying, collecting and enforcement of the contractual assessments to finance the Improvements and the issuance and enforcement of bonds to represent such contractual assessments.
4. This City Council hereby approves joining the JPA as an Associate Member (incorporated by reference as **Exhibit "A"**) and authorizes the execution by appropriate City officials of any necessary documents to effectuate such membership.
5. City staff is authorized and directed to coordinate with Authority staff to facilitate operation of the Authority PACE Program within the City, and report back periodically to this City Council on the success of such program.
6. This Resolution shall take effect immediately upon its adoption. The City Clerk is directed to send a certified copy of this resolution to the Secretary of the Authority.

The foregoing resolution is hereby adopted this 14th day of March, 2016.

**AYES:
NOES:
ABSENT:**

APPROVED:

JAMES E. PRICE, MAYOR

ATTEST:

**JEANNA DEL REAL, CMC
CITY CLERK**

March 7, 2016

Honorable Mayor and Members
of the Atwater City Council

City Council Meeting
of March 14, 2016

**REVIEW AND CONSIDER AUTHORIZING EXECUTION OF JOINT
POWERS AGREEMENT WITH LOCAL PUBLIC AGENCIES FORMING
THE MERCED INTEGRATED REGIONAL WATER MANAGEMENT
PLAN**

RECOMMENDATION:

It is recommended that the City Council consider:

1. Staff recommends the City Council authorize execution of Joint Powers Agreement (Exhibit A)

BACKGROUND:

California SB 1672 was passed into law in 2002 and established the Integrated Regional Water Management Planning (IRWMP) process in an effort to optimize the local management of water resources and to streamline state grants and funds to various regions of the State. Through the IRWMP program, the State of California has offered funding for projects and encouraged collaboration amongst water supply and wastewater agencies, flood control and storm water protection districts, resource and regulatory agencies, non-governmental organizations, local governments, and volunteer groups to enhance integration in water management planning – all at the regional level.

Adoption of the MIRWMP represented the completion of work that started in 2008 and involved a lengthy stakeholder process and cooperation between a variety of local agencies, the City, various stakeholders and the public at large. In addition to coordinating the activities of established stakeholder groups, the MIRWMP engages and educates all interested parties in local and regional water management activities. All residents have a stake in the future of their region's water resources, and as such all members of the general public are considered stakeholders in the IRWM planning process

ANALYSIS:

The Merced Integrated Regional Water Management (IRWM) Region (Region) was approved as an IRWM planning region in 2011 by the California Department of Water Resources (DWR). The Region encompasses roughly 607,000 acres in the northeast portion of Merced County. Its boundaries are defined by the Merced Groundwater Sub-basin to the east, the San Joaquin River to the west, the Dry Creek watershed (a tributary to the Merced River) to the north, and the Chowchilla River to the south.

More than 70 projects were identified through the preparation process for the 2012 plan. The list has expanded since then and can be visited at www.mercedirwmp.org under the heading "Projects". Since the passage of SB 1672, various bonds, passed by California voters, generated funds that were dispersed to "regions" with approved

IRWMPs in the form of competitive grants to implement local multi-purpose water projects. The Merced Region made three attempts to receive Proposition 84 funds, and did receive a total of \$6M in grant funding currently used to implement various projects. The projects benefitted Merced County, the City of Merced, Merced Irrigation District, UC Merced, East Merced Resources Conservation District, Planada Community Services District, and Le Grand Community Services District. Proposition 1 list \$31M designated to the San Joaquin Region, where the Merced Region would compete with Madera County, Fresno County, Stanislaus County, San Joaquin County, and East Contra Costa. The solicitation package is expected to be issued by May of 2016.

The MIRWMP is expected to be updated regularly to keep up with significant water management changes in the area. More importantly, the plan is expected to be implemented as approved by the stakeholders. Since DWR approval of the Merced Region in 2012, the MIRWMP has been managed by the Regional Water Management Group, comprised of the Merced Irrigation District (MID), Merced County, and the City of Merced.

The interim governance leading to the composition and leading of the IRWMP was constituted of a work group made of Merced County, the City of Merced, Merced Irrigation District.

An Interim Regional Advisory Committee appointed by MID Board of Directors as the lead agency for effort.

The interim committee was comprised of 24 members, in addition to 14 alternates representing public and private interests in water resources and water management, urban, business, water industry, environmental, institutions, disadvantaged community, local government, recreation and various types of agriculture. The plan objectives and components of the plan, as outlined by DWR, were discussed and approved by the committee leading to the 2012 proposed IRWMP that was adopted by various agencies, including: Merced County, City of Merced, City of Atwater, City of Livingston, East Merced Resources Conservation District, Planada CSD, Le Grand CSD, Winton Water and Sanitary District, and UC Merced.

The approved governance structure still meets DWR's general interest in stakeholder representation and public involvement, comprised of:

1. A policy committee made of one elected official from the City of Merced, the City of Livingston, the City of Atwater, Merced County, Merced Irrigation District and Stevinson Water District.
2. A Regional Advisory Committee (RAC) nominated by the Policy Committee. The RAC is expected to reflect different water interests in the region including urban, agricultural and environmental and related interests that best serves the mission of the Merced IRWMP. It is anticipated that the new RAC will amount to a similar combination in numbers and diversity to the interim RAC discussed above. The

RAC would elect one liaison to report to the Policy Committee, similar to MIDAC structure for MID.

3. A Management Committee comprised of local agency staff providing support to the Policy Committee and undertake the operation and implementation of activities undertaken by the governance assembly.

In addition to these core elements, the JPA can opt to include Technical Work Groups to help in making decision, such as: Merced Area Groundwater Pool Interests (MAGPI), Merced Streams, Project Review Group, etc. The Policy Committee may elect to accept input for other liaisons such a representative for the public community services district, and agricultural water districts.

Moving forward however, a more formal governance structure is required. Staff from the proposed Policy Committee have already begun initial meetings to formulate the shape and the authority of the committee. During the development of the governance structure, there was a real interest in maintaining a balance between an open inclusive and transparent process for making decision, while also the need to have a body that is ready and willing to help make decisions in an expedient and efficient manner to keep the region competitive and viable in both setting plans and winning grants. Although there are other options, a joint powers authority (JPA) governance model was selected for the following reasons:

1. A JPA is considered a separate agency that can generate and allocate funds if needed to promote the plan and projects identified in the plan. As such the region can partner, if needed, on projects and funding not related to the State IRWM program funding.
2. A JPA may capitalize on using the same elected official chosen by various communities and interests in the area to guide policy for these communities and interests.
3. A JPA provides an umbrella for various water activities where the State and Federal agencies look for a local partner in regional. For example, DWR is looking for a regional flood control agency to partner with on small community projects such protecting the Franklin-Beachwood area. The MIRWMP JPA is recognized as a fitting agency in the absence of a flood control district in Merced County.

FISCAL IMPACT

Staff, time, not significantly different than what staff has provided for both IRWMP, and MAGPI. Positive revenue through successful grant applicants

Respectfully submitted,

Brian Shaw
Brian Shaw
Water Division Manager

**Merced Integrated Regional Water Management Authority
Joint Powers Agreement**

THIS JOINT POWERS AGREEMENT ("Agreement") is dated and made effective as of _____, 2015 (the "Effective Date") pursuant to the Joint Exercise of Powers Act (Government Code Sections 6500, *et seq.*) by and between the public agencies listed on the attached Exhibit "A", in order to form the Merced Integrated Regional Water Management Authority (MIRWMA)

WHEREAS, it is in the interests of the Parties, and the region served by the Parties, that the water resources the Parties share in common are responsibly managed, protected, and conserved to the extent feasible; and,

WHEREAS, the Parties desire to enter into a Joint Powers Agreement (JPA) forming the MIRWMA to provide governance and implement components of the Integrated Regional Water Management Planning Act of 2002, Division 6, Part 2.2 of the California Water Code, as it may be amended from time to time.

WHEREAS, one of the purposes of the MIRWMA is to coordinate and collaborate on supporting goals and objectives outlined in the adopted 2013 Merced Integrated Regional Water Management Plan, and any subsequent version of the plan to optimize available regional water resources.

WHEREAS, each of the parties to this Agreement has various oversight and active roles relative to water resources within the Plan Area described below, including, but not limited to, drought preparedness, water use and reuse, climate change, flood management, protection of surface and groundwater quality, water supply and reliability.

WHEREAS, the parties agree that the creation of and participation in the MIRWMA does not create any right or authority over a Members' own internal matters or resources, including, but not limited to, each Member's right to exercise its sole discretion in managing its surface water supplies, groundwater supplies, facilities, operations, water management, or water supply projects.

WHEREAS, MIRWMA's role in groundwater management will be limited to technical support and the development of implementing projects per the adopted plan as it may be amended from time to time, in addition to activities currently undertaken by the Merced Area Groundwater Pool Interests which functions under AB3030 and SB1938.

WHEREAS, the parties to this Agreement agree that the MIRWMA is not intended to be and does not create a Groundwater Sustainability Agency (GSA), as referenced in the three-bill package, including SB 1168 (Pavley), SB 1319 (Pavley), and AB 1739 (Dickinson), signed into law on September 16, 2014, or any other current or future regulatory entity.

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the parties hereto as follows:

In all respects as set forth in the foundational and material facts set forth in the recitals, inclusive, above, which are hereby incorporated by reference and able to be relied upon for all purposes.

Article I: Definitions

Section 1.01 – Definitions.

As used in this Agreement, unless the context requires otherwise, the meaning of the terms hereinafter set forth shall be as follows:

(a) “Agency” shall mean an entity eligible to hold an AB 3030 plan, compliant with SB 1938, and participate as a member of a Joint Powers of Authority pursuant to Government Code Section 6500, *et seq.* of the Government Code.

(b) “Authority” shall mean the MIRWMA, being the separate entity created by the Members through this Agreement pursuant to the provisions of Government Code sections 6500, *et seq.*

(c) “Board of Directors” or “Board” shall mean the governing body of the Authority as established by Section 3.01 of this Agreement.

(d) “Committee” shall mean any committee established pursuant to Section 3.03 of this Agreement.

(e) “Fiscal Year” shall mean that period of 12 months established as the Fiscal Year of the Authority pursuant to Section 4.01 of this Agreement.

(f) “Days” shall mean calendar days.

(g) “Members” shall mean those Members of the Authority more particularly identified on Exhibit A, and any parties that shall hereafter become Members in accordance with the terms and provisions of this Agreement. All Members shall also be an Agency. Upon the admission of any new Member, Exhibit A shall be immediately amended and recirculated to each of the parties to reflect the updated membership. Agencies requesting membership after the Effective Date of this Agreement must be voted in by the Members and may then be designated Members.

(h) “Parties” or “party” shall mean the Members that have executed this Agreement and any subsequent Members that have joined in accordance with this Agreement.

(i) "Special Activities" shall mean activities undertaken by the Authority, but are undertaken by fewer than all the parties, in the name of the Authority pursuant to Section 3.07.

(j) "Plan Area" shall mean those lands located within the Member boundaries that are within the Merced Sub-Basin, (Bulletin 118 Basin 5-22.04) and are depicted in Exhibit B and in subsequent amendments/modifications.

Article II: Creation of Authority

Section 2.01 – Creation.

The parties, pursuant to their joint exercise of powers under the provisions of Government Code sections 6500 *et seq.*, hereby create a public entity to be known as the Merced Integrated Regional Water Management Authority.

Section 2.02 – Term.

This Agreement shall become effective without further action by any party, upon execution by all of the parties hereto. This Agreement shall remain in effect until terminated by the Members consistent with the provisions of Section 6.03. Unless it is terminated, this Agreement shall remain in effect and be binding upon the parties hereto and upon all subsequent parties joined herein for such a period as the Authority engages in any activities under this Agreement. Except as specifically provided in this Agreement, the foregoing provision shall not apply to any party that withdraws from, or is terminated from, its participation in the Authority in accordance with this Agreement.

Any monies collected that have not been expended as of the date of this Agreement shall be credited towards each Member's financial commitment as identified herein.

Section 2.03 – Purpose.

The purpose of this Agreement is to provide for the joint exercise of powers common to each of the Members, through the Authority, to cooperatively carry out the purposes in the adopted Merced Integrated Regional Water Management Plan within the Plan Area in a manner that does not additionally limit a respective Members' rights and authorities over their own water supply matters, including, but not limited to, a Member's surface water supplies, groundwater supplies, facilities, operations, water management, and water supply projects. The Authority is formed solely to coordinate and carry out such activities related to integrated regional water management. Activities unrelated to such activities concerning integrated regional water management shall not be undertaken by the Authority.

Section 2.04 – Powers.

(a) The Authority shall have the power to take any action to carry out the purposes of this Agreement. The Authority is authorized, in its own name, to do all acts necessary for the exercise of said powers provided that said acts are duly adopted by the Board of Directors and are consistent with this Agreement.

(b) Notwithstanding anything in this Agreement, the Authority shall not have the power to control or limit a Member's rights and authorities over its internal matters or resources, including but not limited to surface water supplies, ground water supplies, facilities, operations, water management, or water supply projects. Likewise, the Authority shall have no power to interfere with a Member's rights, use, or management of a Member's water or water supply.

(c) The Authority shall be prohibited from filing suit against a California Environmental Quality Act ("CEQA") or National Environmental Policy Act ("NEPA") review prepared by any Member, unless required by law to do so. The Authority shall be prohibited from commenting on any CEQA and NEPA document from any Member.

(d) The Authority shall have no power to regulate land use or any regulatory power accorded to the Parties.

Article III: Internal Organization

Section 3.01 – Governing Body.

Except to the extent certain powers are delegated to a Committee pursuant to Section 3.03, the Authority shall be governed by a Board of Directors, that is hereby established and that shall be initially composed of one representative from each of the Members. Without amending this Agreement, the Board of Directors composition may be altered from time to time to reflect the termination and/or admission of any new Members. The term of the Board of Directors shall be for two (2) years.

Each Member shall select a representative, a first alternate, and a second alternate from its governing body, or an appointment from the governing body to serve as their Board Director.

The role of each alternate Director shall be to assume the duties of the Director appointed by his/her Member entity in case of the absence or unavailability of such Director, including, without limitation, such Director's duties as a member of any Committee established pursuant to Section 3.03. The Directors and alternates so named shall continue to serve until their respective successors are appointed.

Section 3.02. – Officers.

The Board shall select a Chair from among the Board of Directors who shall be the presiding officer of the Board meetings. The Board shall select a Vice Chair from among the Board of Directors who shall serve as the presiding officer in the absence of the Chair. The Board shall also select a Secretary, who need not be a member of the Board of Directors. The Board shall also select a Treasurer, who need not be a member of the Board of Directors. The terms of such Officers shall be established by the Board of Directors annually with each Officer being able to serve a maximum of two consecutive terms. The Board may, with cause, alter the appointments, from time to time, at its sole discretion. 'Cause' for purposes of this Agreement means the conviction of a crime of moral turpitude or violation of a conflict of interest law as set forth in either the California Political Reform Act (Government Code section 87100, et. seq.) or Government Code section 1090, the failure of a Board of Director to participate in more than 3 consecutive meetings of the Authority, or such other act or omission of a Board of Director that the remaining Directors determine by unanimous vote is unbecoming of the position and reflects poorly upon the Authority such that his or her removal from the Board is appropriate.

Section 3.03 – Committees.

There shall be established Committees as the Board of Directors shall determine from time to time. Each such Committee shall be comprised of less than a quorum of representatives of Members, shall exist for the term specified in the action establishing the Committee, shall meet as directed by the Board of Directors, and shall make recommendations to the Board of Directors on the activity(ies) of the Authority for which the Committee was established. When the Board of Directors establishes a Committee, each Member shall identify its representative on a Committee, and may alter its appointment, from time to time, at its sole discretion.

Section 3.04 – Seal; Bylaws.

The Board may (but need not) adopt an official seal for the Authority and adopt such bylaws as it may deem necessary to regulate the affairs of the Authority in accordance with this Agreement. The bylaws may be amended from time to time by the Board of Directors as it may deem necessary and may address any matter, including, but not limited to financing, personnel and management of the Authority or any committee therein.

Section 3.05 – Voting; Quorum.

(a) A quorum for the transaction of Authority Business shall be consistent with Exhibit C. Each Board of Director (or in his/her absence alternate Director) shall be entitled to one vote. Any Board member abstaining from a vote shall be counted for purposes of determining the existence of a quorum, but shall not be deemed to be voting.

(b) Any action by the Board of Directors shall require a vote consistent with Exhibit C.

Section 3.06 – Meetings.

Meetings of the Board of Directors and Committees (to the extent applicable) shall be conducted in accordance with the Ralph M. Brown Act, California Government Code Sections 54950, *et seq.*, as amended from time to time.

Section 3.07 – Special Activities.

With a prior approval of the Board of Directors granted at a noticed public meeting, Members may undertake Special Activities in the name of the Authority. Prior to undertaking a Special Activity, the Members electing to participate in the Special Activity shall enter into an activity agreement. Such activity agreement shall provide that (i) no Special Activity undertaken pursuant to such agreement shall conflict with the terms of this Agreement and (ii) the Members to the activity agreement shall indemnify, defend and hold the Authority, and the Authority's other Members, employees, and agents harmless from and against any liabilities, costs or expenses of any kind arising as a result of the Special Activity described in the activity agreement. All assets, rights, benefits, debts, liabilities and obligations attributable to a Special Activity shall be assets, rights, benefits debts, liabilities and obligations solely of the Members that have entered into the activity agreement for that Special Activity, in accordance with the terms of the activity agreement, and shall not be the assets, rights, benefits, debts, liabilities and obligations of those Members that have not executed the activity agreement. Members not electing to participate in the Special Activity shall have no rights, benefits, debts, liabilities or obligations attributable to such Special Activity.

Article IV: Financial Provisions

Section 4.01 – Fiscal Year.

The Fiscal Year of the Authority shall be from July 1 through June 30 of each year.

Section 4.02 – Funds Accounts.

(a) The Treasurer shall serve as the Fiscal Agent for the Authority unless otherwise directed by the Board. The Fiscal Agent shall be responsible for all money of the Authority from whatever source.

(b) All funds of the Authority shall be strictly and separately accounted for and regular reports shall be rendered of all receipts and disbursements at least quarterly during the Fiscal Year. The books and records of the Authority shall be open to inspection by the Members during normal business hours.

(c) The Authority shall contract with a certified public accountant to make an audit or review of the accounts and records of the Authority, which shall be conducted in compliance with Section 6505 of the California Government Code. The Fiscal Agent

shall have the right to reject any proposed certified public accountant. All costs associated with this Audit shall be the full responsibility of the Authority.

Section 4.03 – Property.

The Board of Directors shall from time to time designate the officers and persons, in addition to those specified in Section 4.02 above, who shall have charge of, handle, or have access to any property of the Authority.

Section 4.04 – Budget.

The Board of Directors shall approve a budget at its initial meeting and before the beginning of each fiscal year thereafter. Funding for the budget shall be provided in equal proportion by each Party, except as to specific projects or litigation matters in which a Member has not elected to participate. Each Member's Governing Body shall authorize its funding contribution before the beginning of the fiscal year.

- (a) Each of the Parties may, but are not required to contribute additional money, office space, furnishings, equipment, supplies or services as their respective Governing Boards may deem appropriate.
- (b) Funds may also be derived through State and Federal grants, or other available sources. The Authority may also apply for available State and Federal funds and shall make new and additional applications from time to time as appropriate. The Authority may also establish and collect various fees, leases, or rents as may be authorized by law under the common powers of all Parties.
- (c) The Authority may accept and expend funds from public or private sources subject to the legal restrictions which are set forth in the common powers of the Parties for the purpose of carrying out its powers, duties, responsibilities, and obligations specified in this Agreement.
- (d) The Authority shall be limited to the making of expenditures or incurring of liabilities in the amount of the appropriations allowed by the budget as adopted and revised by the Authority.
- (e) No Member shall be bound, financially or otherwise, by any obligation, contract, or activity undertaken by the Authority unless and except to the extent agreed upon in writing by the Member, except that each Member shall be obligated to fund its then current annual share of the general basic budget of the Authority, provided such budgets are otherwise approved as provided herein. Funding of other matters shall be through Special Activity agreements, or as otherwise agreed to by the Members in writing. The Members expressly intend that the Authority be solely liable for all debts,

awards, judgments, penalties, claims, or other demands for money, action or inaction, regardless of how denominated, characterized, or accrued.

Article V: Management

Section 5.01 – Management.

In addition to, or in lieu of, hiring employees, the Authority may engage one or more parties to manage any or all of the business of the Authority on terms and conditions acceptable to the Board of Directors. A party so engaged may, but need not, be a Member. Any party so engaged shall have such responsibilities as set forth in the contract for such party's services. All benefits, wages, salary, retirement, taxes or other obligation, economic or otherwise, shall be the sole obligation of the Authority.

Article VI: Relationship of Authority And Its Members

Section 6.01 – Separate Entity; Property.

In accordance with California Government Code Sections 6506 and 6507, and in furtherance of the terms of this Agreement, the Authority shall be a public entity separate and apart from the parties to this Agreement. Unless otherwise agreed herein, the debts, liabilities and obligations of the Authority shall not be debts, liabilities or obligations of the Member entities. The Authority shall own and hold title to all funds, property, and works acquired by it during the term of this Agreement.

Section 6.02 – Admission, Withdrawal and Termination of Members.

(a) Additional Agencies may join in this Agreement and become Members upon the approval of the Board of Directors, subject to terms and conditions as may be established by the Board of Directors. Prior to being admitted as a new Member, an entity shall execute an agreement to be bound by the terms of this Agreement and any amendments or supplements hereto, as if such entity had been an original signatory hereto.

Any Member may withdraw from this Agreement by giving written notice of its election to do so to the Chairman. The termination is effective on the 30th day following the notice of withdrawal, the "Effective Date of Withdrawal." A Member may not withdraw from this Agreement if said Member is actively participating in an Authority activity or special activity agreement that otherwise requires the Member's continued participation. In such event, the Member may withdraw from this Agreement only upon the unanimous consent of the Board of Directors, which may be conditioned as appropriate.

(b) Upon withdrawal, the Member shall not be relieved of all obligations for assessments to pay costs or liabilities of the Authority that were incurred prior to the Effective Date of Withdrawal, and the same shall survive until satisfied in full.

(c) In the event one Member refuses further participation under the Agreement, or is in breach of its obligations under this Agreement, such Member may be terminated by a vote of the Board of Directors consistent with Exhibit C, and upon termination it shall no longer be a member of the Authority, but will be subject to surviving duties and obligations.

(d) Upon the termination, of a Member's participation under Section 6.02(d), such former Member shall have no further obligations to the Authority, except that such Member shall not be relieved of any obligations for assessments to pay costs, obligations or liabilities of the Authority, that were incurred prior to the vote terminating that Member's participation under Section 6.02(d) such as obligations arising out of a special activity agreement.

(e) Any provision of this Agreement which imposes an obligation on any Member after the termination of this Agreement shall survive such termination.

Section 6.03 – Termination and Disposition of Property Upon Termination or Determination By Board of Directors of Surplus.

(a) This Agreement may be terminated upon the vote of 2/3 of the Members.

(b) Upon termination of this Agreement, or upon determination by the Board of Directors that any surplus money is on hand, such surplus money shall be returned to the Members of the Authority that contributed such monies in proportion to their contributions. The distribution of the said surplus shall be proportionate to the prior documented contributions of the Members. The Authority shall prepare an accounting that describes the contributions recognized as being subject to distribution.

(c) The Board of Directors shall first offer any surplus properties, works, rights, and interests of the Authority for sale to the Member entities, and the sale shall be based on the highest bid. If no such sale is consummated, then the Board of Directors shall offer the surplus properties, works, rights, and interests of the Authority for sale in accordance with applicable law to any governmental agency, private entity or persons for good adequate consideration.

Each Member shall have the right, but not the duty, to participate in the defense of any action that may result in liability under this section. If a Member that is a party in an action that may cause liability under this section does not give notice to the other Members within five (5) business days of the service of the complaint that may result in liability, then the other Members will not be subject to contribution under this section unless each individually chooses to accept such liability, in full or part.

Section 6.04 – Liability for Debts.

The Members do not hereby intend to be obligated, either jointly or severally, for the debts, liabilities, or obligations of the Authority, except as may be specifically

provided for in California Government Code Section 895.2 as amended or supplemented. Provided, however if any Member(s) of the Authority is, under such applicable law, held liable for the acts or omissions of the Authority caused by negligent or wrongful acts or omissions occurring in the performance of this Agreement, such Member shall be entitled to contribution from the other Members so that after said contributions each Member shall bear an equal share of such liability.

Article VII: Miscellaneous Provisions

Section 7.01 – Amendment.

This Agreement may be amended from time to time in performance with Exhibit C. To provide non-concurring Members an opportunity to withdraw from the Authority as provided herein, an amendment shall be binding on all Members sixty (60) days after the required concurrence has been obtained.

Section 7.02 – Severability and Validity of Agreement.

Should the participation of any party to this Agreement, or any part, term, or provision of this Agreement, be determined in a court of law to be illegal, in excess of that party's authority, in conflict with any law of the State of California, or otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms or provisions of this Agreement shall not be affected thereby and each party hereby agrees it would have entered into this Agreement upon the remaining terms and provisions.

Section 7.03 – Assignment.

Except as otherwise provided in this Agreement, the rights and duties of the parties to this Agreement may not be assigned or delegated without the advance written consent of the Authority, and any attempt to assign or delegate such rights or duties in contravention of this section shall be null and void. Any assignment or delegation permitted under the terms of this Agreement shall be consistent with the terms of any contracts, resolutions or indentures of the Authority then in effect. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. This section does not prohibit a party from entering into an independent agreement with another agency regarding the financing of that party's contributions to the Authority or the disposition of process that party receives under this Agreement so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the parties under this Agreement.

Section 7.04 – Notices under Agreement.

Notices authorized or required to be given pursuant to this Agreement shall be in writing, and shall be deemed to have been given when mailed, postage prepaid, or delivered during working hours to the addresses set forth for each of the parties hereto on Exhibit A of this Agreement, or to such other changed addresses communicated to

the Authority and the Member entities in writing, and to such other entities that become Members.

Section 7.05 - Insurance.

The Authority shall procure, carry and maintain commercial general liability insurance to include coverage for all operations of the Authority under this Agreement, including, but not limited to the following: (a) premises, operations and mobile equipment liability; (b) completed operations and products liability; (c) blanket contractual liability; (d) explosion, collapse, and underground hazards; (e) personal injury liability; and (f) protective liability for impacts on the Parties' operations. The Authority shall provide the Commercial General Liability Insurance with limits not less than the following: (i) \$3,000,000.00 each occurrence, or for a combined occurrence of bodily injury and property damage; (ii) \$1,000,000.00 completed operations and products liability; and (iii) \$1,000,000.00 personal and advertising injury. The Authority shall provide the policy with an endorsement for a general aggregate limit per project.

Section 7.06 – Defense and Indemnity.

The Members expressly intend that the Authority be solely liable for all debts, awards, judgments, penalties, claims, or other demands for money, action or inaction, regardless of how denominated, characterized, or accrued. In addition, all personnel, labor, benefits, contract liability, and tort liability shall be the sole liability of the Authority and not of one or more Members.

Except for Special Activities as provided in Section 3.07 and disputes arising Section 6.03, the Authority shall assume the defense of, and indemnify, and hold harmless each Party to this Agreement and its respective officers, agents and employees, from all claims, losses, damages, costs, injury and liability of every kind, nature and description directly or indirectly arising from the performance of any of the activities of the Authority undertaken pursuant to this Agreement, except to the extent the liability arises from the gross negligence or willful misconduct of the parties seeking indemnity.

Section 7.07 – Dispute Resolution.

In the event there are disputes and/or controversies relating to the interpretation, construction, performance, termination, breach of, or withdrawal from this Agreement, the parties involved shall in good faith meet and confer amongst themselves in an attempt to informally resolve such matter(s). If the parties are unsuccessful in resolving such matter(s) through an informal meeting process within sixty (60) days of the accrual of the dispute, they shall attempt to resolve such matter(s) through mediation utilizing a commercially recognized alternative dispute resolution provider. If the parties are unable to resolve such matter(s) through mediation within ninety (90) days of having contacted the mediator, they may attempt to settle such issue(s) through binding arbitration under the rules and regulations of the American Arbitration Association. Any party requesting arbitration under this Agreement must make a request on the other

parties by registered or certified mail, with a copy of such request provided to the American Arbitration Association.

The cost of the Arbitrator shall be deposited with the Arbitrator, and shall be borne equally by the parties agreeing to arbitration, based on the Arbitrator's estimate, and shall be paid either in advance or as agreed prior to the date set for Arbitration. Each party shall bear their own attorneys' fees and costs.

All costs related to undertaking the rights set forth in this section shall be borne equally by the parties involved, and shall be paid either in advance or as agreed. If a party does not pay as required, the non-paying party shall lose its rights under this section.

Section 7.08 – Execution In Parts Or Counterparts.

This Agreement may be executed in parts or counterparts, each part or counterpart being an exact duplicate of all other parts or counterparts, and all parts or counterparts shall be considered as constituting one complete original and may be attached together when executed by the parties hereto. Facsimile or electronic signatures shall be binding. The Authority shall hold all the executed versions of this Agreement and make them available as requested as requested. The Authority shall maintain all public records as required by law.

IN WITNESS WHEREOF, the parties hereto, pursuant to resolutions duly and regularly adopted by their respective board of directors or governing board, have caused their names to be affixed by their proper and respective officers as of the day and year first above –written.

Name of Member: _____

BY: _____

ITS: _____

Dated: _____

(address)

Exhibit A

Members

County of Merced

City of Merced

City of Livingston

City of Atwater

Merced Irrigation District

Stevinson Irrigation District

Exhibit C
Voting Matrix

	Action	Voting Requirement
1	Meeting Quorum	Majority
2	Acceptance of Members	2/3
3	Termination of Members	2/3
4	Legal authorities provided to JPA	Unanimous
5	Fiscal Actions – Budget Approvals	2/3
6	Budget Expenditures	Majority
7	Joint Powers Agreement Amendments	2/3
8	Termination of Agreement	2/3
9		
10		

February 25, 2016

Honorable Mayor and Members
of the Atwater City Council

City Council Meeting
of March 14, 2016

**AUTHORIZE A CONTRACT WITH MID VALLEY
ENGINEERING COMPANY FOR ON CALL GENERAL
ENGINEERING SERVICES**

RECOMMENDATION:

It is recommended that the City Council consider:

1. Approve a contract for professional services with VVH Consulting Engineers Inc. (VVH) for on call general engineering services; and,
2. Authorize the City Manager to execute the agreement on behalf of the City of Atwater.

BACKGROUND:

The City has on call engineering, plan checking, and other services with several local companies. These contracts are necessary for services which can no longer be provided internally but are necessary to comply with demands for services, special projects, and compliance with state laws.

Some examples include an executed an on call engineering agreement with Quad Knopf – FPP Engineering in 2014. In 2015 the City executed a contract with JLB Engineering for traffic engineering and planning services. The services or assistance are requested only as needed. Also in 2015 the City executed a contract with Golden Valley Engineering for on call general engineering. In late 2015 the City also executed an agreement with Mid Valley Engineering. By having a “tool kit” it allows the City to select an firm that can provide the services in the most expedient time or in some cases allow for quotes on work to yield the best value. There are however limits on the use of these types of “on call” service agreements as it pertains to work done under some CALTRANS administered programs. In some cases if the amount of work to a consultant equals or exceeds \$150,000 over a five year term any grant related work done by the consultant is forfeited and becomes the responsibility of the local agency. Having multiple opportunities helps eliminate that risk and also allows for work to be designated to providers that can respond in the best interests of the City.

ANALYSIS

VVH has contracts with several valley communities and also works on private projects. They provide all forms of engineering, surveying, and technical engineering services. One of the main services they provide is design engineering, cost estimates, and value engineering for roadway reconstruction projects.

There has been considerable discussion that the State may enact initiatives which would increase the amount of funding available to local communities for “shovel ready” road repair work or new improvements. As the Council is aware a local transportation measure may also be on the November 2016 Ballot. Should the measure pass it would provide a dedicated funding source for road repairs. Currently the City has a contract awarded to Mid Valley Engineering (MVD) for preliminary design and cost estimates for Winton Way. It is the intent to enter into the agreement with VVH to allow them to prepare preliminary design and cost estimates for Fruitland Ave. That item would be on a future agenda for consideration by the Council. There may be other specific items in the future. These may include review of parcel maps, plan check of private development projects, preparation of legal descriptions, and preparation of plans and specifications for other future capital projects. A proposed Scope of Work is attached, **(Exhibit A)**, the hourly rates are also attached, **(Exhibit B)**.

FISCAL IMPACT:

No budget amendment is requested at this time. There are adequate funds in several existing professional services sections of the adopted budget. The services will be paid for the existing budget under professional services in Community Development, Sewer, Water, Streets – Gas Tax, and other existing sources depending on the type of work. For plan check, map check, and other services in support of a private development projects funding comes in the form of private plan check fees and reimbursements. Funding can also be provided by dedicated project design and engineering allocations to specific projects, for example CMAQ grants.

CONCLUSION:

This staff report is submitted for City Council consideration and possible action.

Respectfully submitted,



Scott McBride
Community Development Director

Scope of Services
City of Atwater
On-Call General Engineering Services

Background

The City of Atwater (City) has requested for VH Design Group Inc. dba VVH CONSULTING ENGINEERS, Inc. (VVHCE) to provide on-call general engineering services to the City.

Scope of Services

Engineering services to be performed by VVH CONSULTING ENGINEERS on an as-needed basis as provided herein may include, but are not limited to:

Professional Services:

Civil Engineering

- Plan checking for new residential subdivisions, commercial, and industrial improvement projects.
- Hydraulic analysis of the City's water, sewer, and storm drainage facilities.
- Evaluating the City's utilities.
- Engineering services or field engineering work on the City's public facility construction projects.
- Mapping and surveying.
- Preparing engineering calculations and analyses.
- Opinion of probable construction costs.
- Special study work on specific projects.
- Engineering work related to construction projects, including design, surveying, office engineering services during construction, and construction contract administration or construction management.
- Performing inspections.
- Street and Road Design.
- Infrastructure Master Plans and Fee Studies.

Construction Related Services

- Construction Management.
- Construction Observation (No Testing).
- Project Coordination.
- Contract Administration.
- Scheduling and Cost Estimating.

Survey

- Topographic, ALTA, Boundary Surveys.
- Construction Staking.
- Right-of-way Acquisitions.
- Parcels Maps.
- Aerial Photography Coordination.

Compensation for Services

VVH CONSULTING ENGINEERS will perform the services described above on a time and materials basis in accordance with the attached Hourly Rate Schedule. The City will be billed monthly for all work performed during the previous month using the attached Hourly Rate Schedule, (Exhibit B) which is attached hereto and made a part of this Agreement.

Opinions of Probable Construction Cost

Any opinion of probable construction cost prepared by the VVH CONSULTING ENGINEERS represents a judgment as a professional and is supplied for the general guidance of the City. Since VVH CONSULTING ENGINEERS has no control over the cost of labor and material, or over competitive bidding or market conditions, VVH CONSULTING ENGINEERS does not guarantee the accuracy of such opinions as compared to contractor bids or actual cost to the City.

Right to Rely

Consistent with the professional standard of care, VVH CONSULTING ENGINEERS shall be entitled to rely upon the accuracy of data and information provided by the City or others without independent review or evaluation unless specifically required in the Scope of Services. VVH CONSULTING ENGINEERS will identify areas of potential conflict between existing facilities and points of connection or conflict with proposed improvements. If points of connection or extent of conflict cannot be ascertained from record drawings or by visual observation, the City will pothole the utility and provide information concerning the location of the existing facilities to VVH CONSULTING ENGINEERS. This information will be incorporated into the design of the improvements.

Disk Files

Disk files or CD-ROM files delivered to the City shall not include the professional stamp or signature of an engineer. The City agrees that VVH CONSULTING ENGINEERS shall not be liable for claims, liabilities or losses arising out of, or connected with (a) the modification or misuse by the City or anyone authorized by the City of such files; (b) the decline of accuracy or readability of such files due to inappropriate storage conditions or duration; or (c) any use by the City or anyone authorized by the City of such files for any other project, excepting only such use as is authorized, in writing, by VVH CONSULTING ENGINEERS.

Asbestos or Hazardous Material

In providing its services described herein, VVH CONSULTING ENGINEERS shall not be responsible for identification, handling, containment, abatement, or in any other respect, for any asbestos or hazardous material if such is present in connection with the project. However, in the event that VVH CONSULTING ENGINEERS becomes aware of the presence of asbestos or hazardous material at the jobsite, VVH

CONSULTING ENGINEERS shall immediately notify the City, who shall then be entitled to cease any of its services that may be affected by such presence, without any liability to the City arising therefrom.

Construction Safety

The City agrees that in accordance with generally accepted construction practices, the construction contractor will be required to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property, and that this requirement shall be made to apply continuously and not be limited to normal working hours. VVH CONSULTING ENGINEERS shall not have control over or charge of, and shall not be responsible for, construction means, methods, techniques, sequences or procedures, as these are solely the responsibility of the construction contractor. VVH CONSULTING ENGINEERS shall not have the authority to stop or reject the work of the construction contractor.

Contractor Indemnification/Insurance

The City will include in the general conditions of any construction contract, language which states that the construction contractor is required to hold harmless and defend the City, VVH CONSULTING ENGINEERS, and their agents, employees and consultants, from all suits and actions, including attorneys' fees, and all costs of litigation and judgments of any nature and description arising out of or incidental to the performance of the construction contract or work performed thereunder. The City, VVH CONSULTING ENGINEERS, their agents, employees and consultants shall also be named as additional insureds in any construction contractor's insurance policies.

Additional Services

VVH CONSULTING ENGINEERS shall be compensated by City for additional services provided by VVH CONSULTING ENGINEERS as requested in writing by City in accordance with the Hourly Rate Schedule in effect at the time of performance of the additional services and subject to any maximum amount mutually agreed to in writing.



Exhibit "B"

2016 FEE SCHEDULE

Effective January 1, 2016

Title / Position	Hourly Billing Rate
Principal	\$160.00
Senior Project Manager	\$145.00
Project Manager	\$125.00
Senior Civil Engineer	\$145.00
Civil Engineer	\$125.00
Senior Land Surveyor	\$145.00
Land Surveyor	\$125.00
Senior Designer	\$115.00
Designer	\$105.00
Drafter	\$85.00
Administrative / Clerical	\$80.00
1-Person Survey Crew	\$120.00
2-Person Survey Crew	\$175.00
3-Person Survey Crew	\$235.00
Investigative / Expert Witness*	\$300.00
Professional Consultation*	\$300.00

Expense Item	Billing Rate
Additional Bond Plot, Black & White	\$0.30 / sf
Additional Bond Plot, Color	\$0.50 / sf
Additional Vellum Plot, Black & White	\$1.00 / sf
Additional Mylar ^o Plot, Black & White	\$5.00 / sf
U.S. Mail Transmittal	No Fee
FedEx, UPS, or Other Courier Transmittal	Cost + 10%
Vehicle Mileage (excludes survey crews)	Current IRS Standard Rate + 10%

* Fees for investigative services, expert witness, and professional consultation are generally not applicable to projects involving the preparation of plans or specifications for construction projects.



**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF ATWATER AND
VVH CONSULTING ENGINEERS, INC. (VVH)**

This Professional Services Agreement ("Agreement") for consulting services is made by and between the City of Atwater ("City") and VVH CONSULTING ENGINEERS, Inc. ("Consultant") as of _____ (the "Effective Date"). City and Consultant shall be referred to herein separately as a "Party" and collectively as "Parties".

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the Engineering Services described in the Scope of Services attached hereto and incorporated herein as Exhibit "A", at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit "A", the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall remain in effect until cancelled by either Party or amended by the Parties, Consultant shall complete the work described in Exhibit "A", unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Section 1.1 above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed the hourly rates described in Exhibit "B", notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's Scope of Services, attached as Exhibit "A", regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

- 2.1 **Invoices.** Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:
- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
 - The beginning and ending dates of the billing period;
 - A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion (a Fixed fee proposal);
 - At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
 - The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
 - The Consultant's signature;
 - Consultant shall give separate notice to the City when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds the number of hours allowed under this Agreement and any other agreement between Consultant and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit "A" and the estimate of time necessary to complete work under any other agreement between Consultant and City, if applicable.
- 2.2 **Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.
- 2.3 **Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.
- 2.4 **Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever

incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.

In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task, task order issued by City or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.

- 2.5 **Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the Fee Schedule attached hereto as Exhibit "B".
- 2.6 **Reimbursable Expenses.** Reimbursable expenses are specified in Exhibit "B", and shall not exceed the amounts described in Exhibit "B". Expenses not listed in Exhibit "B" are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 **Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.8 **Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.9 **Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 4. INSURANCE REQUIREMENTS. Before beginning any work under this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City. Verification of the required insurance shall be submitted and made part of this Agreement prior to execution. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

- 4.1 **Workers' Compensation.** Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any

and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Consultant may rely on a self-insurance program to meet those requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the Labor Code shall be solely in the discretion of the Contract Administrator.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **General requirements.** Consultant, at its own cost and expense, shall maintain commercial general and automobile liability insurance for the term of this Agreement in an amount not less than \$1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 **Minimum scope of coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001 (most recent edition), Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 **Additional requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, and employees, are to be covered as additional insured as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant
- c. For any claims related to this Agreement or the work hereunder, the Consultant's insurance covered shall be primary insurance as respects the City, its officers, officials, and employees,. Any insurance or self-

insurance maintained by the City, its officers, officials, or employees shall be excess of the Consultant's insurance and shall not contribute with it.

- d. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after prior written notice has been provided to the City per standard ISO ACORD form wording.

4.3 Professional Liability Insurance.

4.3.1 General requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$1,000,000 covering the licensed professionals' negligent errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

4.3.2 Claims-made limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least two years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant must purchase an extended period coverage for a minimum of two years after completion of work under this Agreement.

4.4 All Policies Requirements.

4.4.1 Acceptability of insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 Verification of coverage. Prior to beginning any work under this Agreement, Consultant shall furnish City with certificates of insurance evidencing required policies delivered to Consultant by the insurer, including complete copies of all endorsements attached to those certificates. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies in the event of a claim.

4.4.3 **Deductibles and Self-Insured Retentions.** Consultant shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement.

4.4.4 **Wasting Policies.** Except for Professional Liability insurance policy, no policy required by this Section 4 shall include a “wasting” policy limit (i.e. limit that is eroded by the cost of defense).

4.4.5 **Waiver of Subrogation.** With respect to Commercial General and Auto Liability insurance coverage only, Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.

4.4.6 **Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.5 **Remedies.** In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant’s breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT’S RESPONSIBILITIES.

Consultant shall indemnify, defend, and hold harmless City and its officers, officials, employees, and authorized agents from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney’s fees and costs and fees of litigation) (collectively, “Liability”) to the extent caused by Consultant’s negligence or willful misconduct in its performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the negligence or willful misconduct of City.

The Consultant's obligation to defend and indemnify, to the extent caused by Consultant's negligence or willful misconduct, shall not be excused because of the Consultant's inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within 30 days, to the tender of any claim for defense and indemnity by the City, unless this time has been extended by the City. If the Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first.

Neither party to this Agreement shall be liable to the other party or any third party claiming through the other respective party, for any special, incidental, indirect, punitive, liquidated, delay or consequential damages of any kind including but not limited to lost profits or use of property, facilities or resources, that may result from this Agreement, or out of any goods or services furnished hereunder.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONSULTANT.

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subparagraph 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2 **Consultant Not an Agent.** Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an

agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 **Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 **Amendments.** The parties may amend this Agreement only by a writing signed by all the parties.
- 8.4 **Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:
- 8.6.1 Immediately terminate the Agreement;
 - 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3 Retain a different consultant to complete the work described in Exhibit "A" not finished by Consultant; or

8.6.4 Charge Consultant the difference between the cost to complete the work described in Exhibit "A" that is unfinished at the time of breach and the amount that City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

9.1 **Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Consultant agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both parties. Consultant not liable for any re-use of documents other than their intended purpose.

9.2 **Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.

9.3 **Inspection and Audit of Records.** Any records or documents that Section 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

Section 10 MISCELLANEOUS PROVISIONS.

10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

- 10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Merced or in the United States District Court for the Eastern District of California.
- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- 10.6 **Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 **Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous twelve months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of Government Code § 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

- 10.8 **Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 **Contract Administration.** This Agreement shall be administered by *Community Development Director McBride* ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

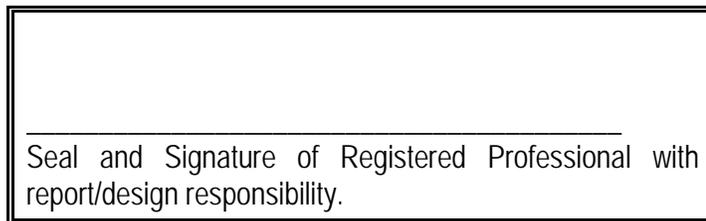
10.10 **Notices.** Any written notice to Consultant shall be sent to:

*VVH CONSULTING ENGINEERS, Inc.
430 10th Street
Modesto, CA 95354*

Any written notice to City shall be sent to:

*Community Development Director
Scott McBride
750 Bellevue Road
Atwater, CA 95301*

10.11 **Professional Seal.** Where applicable in the determination of the contract administrator, the first page of a technical report, first page of design specifications, and each page of construction drawings shall be stamped/sealed and signed by the licensed professional responsible for the report/design preparation. The stamp/seal shall be in a block entitled "Seal and Signature of Registered Professional with report/design responsibility," as in the following example.



10.12 **Integration.** This Agreement, including the Scope of Services attached hereto and incorporated herein as Exhibit "A" and the Fee Schedule attached hereto and incorporated herein as Exhibit "B", represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

10.13 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

[SIGNATURES ON FOLLOWING PAGE]

The Parties have executed this Agreement as of the Effective Date.

CITY OF ATWATER

CONSULTANT

Frank Pietro,
City Manager

VVH CONSULTING ENGINEERS, Inc.

Attest:

Jeanna Del Real, CMC
City Clerk

Approved as to Form:

Thomas Terpstra,
City Attorney

March 7, 2016

Honorable Mayor and Members
of the Atwater City Council

City Council Meeting
of March 14, 2016

MONTHLY REVIEW OF LOCAL DROUGHT EMERGENCY

RECOMMENDATION:

It is recommended that the City Council consider:

- Reaffirming the facts and findings in Resolution No. 2823-15 declaring the existence of a local drought emergency.

BACKGROUND AND ANALYSIS:

In January 2014, the Governor declared a state of emergency in the State of California due to current drought conditions. As a result of the Governor's declaration, on May 26, 2015, the City Council adopted Resolution No. 2823-15 declaring the existence of a local drought emergency and Urgency Ordinance No. CS 966 amending the City's current water conservation program in an effort to curtail effects of the current and future Statewide drought conditions within the City of Atwater.

Government Code section 8630(c) requires the City review the need for continuing the local drought emergency at least once every 30 days until the City Council terminates the local drought emergency. Staff has reviewed the City's need for continued conservation in line with the urgency ordinance and believes there is a continued need for the local drought emergency procedures contained therein.

Therefore, Staff recommends that the City Council reaffirm the facts and findings in Resolution No. 2823-15 declaring the existence of a local drought emergency.

FISCAL IMPACT:

Short-term water saving actions will have minimal staff and monetary impacts. Longer-term actions may require additional resources, which would be presented to the City Council for consideration after Staff has had an opportunity to further explore their feasibility.

CONCLUSION:

This staff report is submitted for City Council consideration.

Respectfully submitted,

/s/ Thomas H. Terpstra

Thomas H. Terpstra
City Attorney



CITY COUNCIL OF THE CITY OF ATWATER

RESOLUTION NO. 2823-15

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATWATER DECLARING EXISTENCE OF A LOCAL DROUGHT EMERGENCY

WHEREAS, California Government Code § 8630 empowers the City Council to declare the existence of a local drought emergency when the City of Atwater is threatened or likely to be threatened by the conditions of extreme peril to the safety of persons and property that are or are likely to be beyond the control of the services, personnel, equipment, and facilities of this City; and

WHEREAS, California Government Code § 8558(c) states that a “local emergency” means the duly declared existence of conditions of extreme peril to the safety of persons and property within the territorial limits of the City caused by the drought; and

WHEREAS, pursuant to Atwater Municipal Code § 2.44.060, the Director of Emergency Services has requested the City Council to declare the existence of a local emergency; and

WHEREAS, on January 17, 2014, the Governor of the State of California declared a state of emergency in the State of California due to current drought conditions in the state; and

WHEREAS, the Governor’s proclamation acknowledged that the State of California is experiencing record dry conditions that have persisted since 2012; and

WHEREAS, the Governor’s proclamation also noted that the snowpack in California’s mountains is alarmingly below the normal average level for this date; and

WHEREAS, the Governor’s proclamation called upon all Californians to reduce their water usage by 25 percent; and

WHEREAS, the Governor’s proclamation called upon local water suppliers and municipalities to implement water shortage contingency plans immediately in order to avoid or forestall outright restrictions that could become necessary later in the drought season; and

WHEREAS, persistent drought conditions have negatively impacted and continue to threaten the City’s economy; and

WHEREAS, conditions of drought exacerbate already perilous fire conditions threatening communities in the City of Atwater; and

WHEREAS, on January 15, 2014, the Secretary of the United States Department of Agriculture designated 27 California counties, [*including Alameda, Alpine, Amador, Calaveras, Contra Costa, El Dorado, Fresno, Inyo, Kings, Kern, Los Angeles, Madera, Mariposa, Merced, Mono, Monterey, Sacramento, San Benito, San Bernardino, San Joaquin, San Luis Obispo, Santa Clara, Santa Barbara, Stanislaus, Tulare, Tuolumne, and Ventura*] as natural disaster areas due to drought which makes farm operators in the designated counties eligible to be considered for certain assistance including emergency loans from the U.S. Farm Service Agency for production losses; and

WHEREAS, on January 17, 2014, the California State Resources Control Board notified all water rights holders in California that, in the coming months, if dry weather conditions persist, the State Water Board will notify water right holders in critically dry watersheds of the requirement to limit or stop diversions of water under their water right, based upon the priority of their right; and

WHEREAS, these conditions are likely to be beyond the services, equipment, personnel and fiscal resources of the City of Atwater.

NOW, THEREFORE, BE IT RESOLVED AND DECLARED by the City Council of the City of Atwater that for the reasons set forth herein, a local drought emergency now exists throughout the City of Atwater; and

BE IT FURTHER RESOLVED that federal and state agencies are requested to provide financial and other assistance to residents, water suppliers, water rights holders, and business owners in the City of Atwater to help them mitigate the persistent drought conditions; and

BE IT FURTHER RESOLVED that the City of Atwater's water users shall be encouraged and directed to heed the Governor's request to reduce water usage by 25 percent; and

BE IT FURTHER RESOLVED that water suppliers in the City of Atwater shall be encouraged and directed to heed the Governor's request to implement water shortage contingency plans immediately in order to avoid or forestall outright restrictions that could become necessary later in the drought season; and

BE IT FURTHER RESOLVED that all city water associates, power companies, other involved agencies, utilities, and individuals shall be encouraged and directed to do whatever they can to equitably allocate the available water to mitigate to the extent possible the hardships resulting from the lack of water during this extended drought period of recovery; and

BE IT FURTHER RESOLVED, DECLARED AND ORDERED that during the existence of this local drought emergency the powers, functions, and duties of the emergency organization of this City shall be those prescribed by state law, ordinances, and resolutions existing and passed in conjunction with this emergency, and that this emergency shall be deemed to continue to exist until the City Council of the City of Atwater, County of Merced, State of California, declares its termination. Further, it is directed that this emergency declaration be forwarded to the Director of the Governor's Office of Emergency Services and the Governor of the State of California; and

BE IT FURTHER RESOLVED, DECLARED AND ORDERED that the City Council of the City of Atwater hereby authorizes the undertaking of all extraordinary police and planning powers in response to this local drought emergency including but not limited to the ability to modify,

amend, or issue planning codes, building or safety codes, environmental health codes, and such other codes, orders, and regulations as determined necessary for the duration of the emergency; and

BE IT FURTHER RESOLVED, DECLARED AND ORDERED that public employees, officers, and governing bodies within the City are hereby granted full immunity to the extent allowed by law for actions undertaken in compliance with this declaration; and

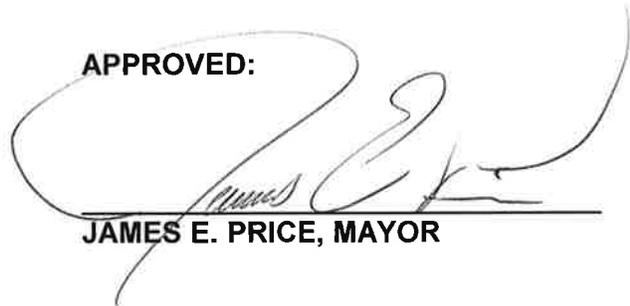
BE IT FURTHER RESOLVED, DECLARED AND ORDERED that during the existence of this local drought emergency, the City of Atwater Director of Emergency Services may request the City Council to amend this declaration of a local drought emergency and, if this Council is not in session to amend this declaration as necessary and, if this declaration is amended by the Director of Emergency Services, the Council shall take action to ratify the amendment within 14 days thereafter or the amendment shall have no further force or effect; and

BE IT FURTHER RESOLVED, DECLARED AND ORDERED that pursuant to Government Code section 8630(c) this City Council will review the need for continuing the local drought emergency at least once every 30 days until this Council terminates the local drought emergency.

The foregoing resolution is hereby adopted this 26th day of May, 2015.

AYES: Bergman, Raymond, Vineyard, Price
NOES: Rivero
ABSENT: None

APPROVED:



A large, stylized handwritten signature in black ink, appearing to read 'James E. Price', is written over a horizontal line.

JAMES E. PRICE, MAYOR

ATTEST:



A handwritten signature in black ink, appearing to read 'Jeanna Del Real', is written over a horizontal line.

JEANNA DEL REAL, CMC
CITY CLERK

February 25, 2016

Honorable Mayor and Members
of the Atwater City Council

City Council Meeting
of March 14, 2016

ACCEPTING NEW TIER 4 WATER TRUCK PURCHASE

RECOMMENDATION:

It is recommended that the City Council consider:

1. Accepting work done under contract to manufacture and deliver a new Tier 4 Water Truck, City Project No. 14-6, Bid Call No. 671-15;
2. Authorizing the City Manager to sign a Notice of Completion and have it recorded on behalf of the City; and
3. Authorizing a final payment in the amount of \$113,290.92

BACKGROUND:

At their regular meeting of September 28, 2015, the City Council awarded a contract in the amount of \$113,291 to Certified Stainless Service, Inc. DBA West Mark, 581 Industry Way, Atwater, California to manufacture and deliver a new Tier 4 Final Water Truck that meets current Air Quality standards. The final invoice submitted in the amount of \$113,290.92 (**EXHIBIT "A"**) came in just under the original bid amount. This project is funded with federal funds from the Congestion Mitigation and Air Quality (CMAQ) Improvement Program. CMAQ will reimburse the City 100% of the contract amount with no match required by the City.

The water truck passed the performance test and inspection by staff on March 3, 2016. The City took possession of the water truck on March 3, 2016.

ANALYSIS:

The work under this contract was satisfactorily completed on March 3, 2016, in accordance with the specifications. City staff has inspected all the work and finds it meets or exceeds the specifications and is acceptable.

Should the City Council choose to accept the water truck; the first and final payment in the amount of \$113,290.92 would be issued. No retention will be withheld. Immediately thereafter, an invoice will be sent to Caltrans to reimburse the City for 100% of the contract price in the amount of \$113,290.92.

Caltrans could take from 30 to 60 days after submittal of a final invoice to process the reimbursement.

Not accepting the vehicle would impact the City's ability to qualify for future CMAQ and

other grant funds. Competitive grants are awarded based on points earned by meeting certain qualifications such as successfully completing projects.

The Notice of Completion has been prepared (**EXHIBIT “B”**) for this project.

FISCAL IMPACT:

The 2015/16 budget amount for the purchase of a new water truck is \$113,291. The contract was awarded to West Mark for \$113,291. CMAQ grants usually require the City to provide matching funds however this projected was awarded with 100% funding.

Caltrans will reimburse the City \$113,290.92 within 30-60 days of submittal of the final invoice to them. The invoice is ready to be submitted to Caltrans in anticipation of City Councils acceptance of the equipment.

Council has budgeted sufficient funds for this project in the Capital Improvement Plan for FY 2015/16, General Fund Capital, CMAQ Grant Water Truck Replacement; Account No. 0003.1080.M001.

CONCLUSION:

This staff report is submitted for City Council consideration and possible action.

Respectfully submitted,

/s/ Brian Shaw

Brian Shaw
Water Division Manager/Chief Operator

BS/lw



CERTIFIED STAINLESS SERVICE, INC

2704 Railroad Avenue, Ceres, CA 95307
 (209) 537-4747 - FAX (209) 537-1753
 1-800/692-5844

REMIT TO: P.O. Box 100, Ceres, CA 95307-0100

INVOICE

Invoice No:	39187
Invoice Date:	2/11/2016
Customer #	68415

SOLD	CITY OF ATWATER	SHIP	CITY OF ATWATER - CORPORATE YARD
	ATTN: LORI WATERMAN		ATTN: BRIAN SHAW
	750 BELLEVUE ROAD		470 AVIATOR DRIVE
	ATWATER CA 95301		ATWATER CA 95301

W.O. #	P.O. #	TERMS	SALES REP	SHIP DATE	SHIP VIA	FOB
39187	10909	SEE BELOW	JH	WEST-MARK		CERES
MFG	YEAR	SERIAL NO.	EQUIP NO.	LICENSE NO.	DOT SPEC	MATERIAL
	2016	39187				

DESCRIPTION	AMOUNT	TOTAL
VIN #: 1NKBHJ7X0GR130441		
DESCRIPTION: ONE (1) 2016 WEST-MARK 2000 GALLON, DUST CONTROL WATER TRUCK TANK MOUNTED ON 2016 KENWORTH CHASSIS		104,899.00
REGISTERED OWNER: CITY OF ATWATER 750 BELLEVUE ROAD ATWATER, CA 95301		
LIENHOLDER: NONE		
TERMS: NET UPON DELIVERY		
THANK YOU FOR YOUR BUSINESS!		

**CITY OF ATWATER
PAYMENT AUTHORIZATION**

ACCOUNT NUMBERS	AMOUNT
0003.1080.M001	\$ 113,290.92
DEPARTMENT APPROVAL	
DATE SIGNED	
DESCRIPTION / JUSTIFICATION	CMAA Water Truck Project

OPEN ITEMS	TOTALS
M1	QUOTE \$ 104,899.00
GVWR	FET (if appl) EXEMPT
EXEMPT PLATES	SALES TAX 8.000% 8,391.92
6 TIRES	LICENSE FEE EXEMPT
	DELIVERY (if appl) -
	CA TIRE FEE -
	SUBTOTAL 113,290.92
	LESS: TRADE-IN -
	LESS: DEPOSIT -
	TOTAL INVOICE: \$ 113,290.92

This account is subject to a FINANCE CHARGE for late payment. This charge is computed at an annual PERCENTAGE RATE OF 18% (periodic monthly percentage rate of 1 1/2%) on the total past due balance remaining unpaid 30 days after the date of invoice. **US Funds Only.**
 For additional "Terms of Sale" see www.west-mark.com

Recorded at the request of:

CITY CLERK

Return to

CITY OF ATWATER

750 BELLEVUE ROAD

ATWATER, CA 95301

NOTICE OF COMPLETION

(INDIVIDUAL OR CORPORATION)

Notice is Hereby Given That:

1. The work of improvement as a whole was completed upon the hereinafter described real property on: February 10, 2014

2. The name and address of the owner giving and filing this notice:

Name	Street and No.	City	State
CITY OF ATWATER	750 BELLEVUE ROAD	ATWATER	CALIFORNIA

The interest of said owner was acquired subsequent to the commencement of the work of improvement from:

Name	Street and No.	City	State
	N/A		

The names and addresses of all other co-owners, if any, who own an estate or interest in said real property, whether as joint tenants or tenants in common, or otherwise, are:

Name	Street and No.	City	State
	N/A		

3. That the nature of the interest or estate of the owner in and to said real property is in fee: N/A

4. That the name of the original contractor for the work of improvement referred to above is: Certified Stainless Service Inc., DBA West Mark.

5. That the street address of said property is: 470 Aviator Drive, Atwater, California.

6. That the real property herein referred to is situated in the City of Atwater, County of Merced, State of California, and particularly described as follows:

Water Truck Replacement Project
Bid Call No. 671-15; City Project No. 14-6

Verification for CORPORATE owner:

STATE OF CALIFORNIA

} ss

FRANK PIETRO, CITY MANAGER
CITY OF ATWATER

County of Merced

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

On _____ before me, Jeanna Del Real, City Clerk, personally appeared Frank Pietro, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Jeanna Del Real, CMC
NOTARY PUBLIC

CITY OF ATWATER

City Claim No. 2016-2

CLAIM FORM

FORM B

(Please Type or Print)

JAN 21 2016

10:23ms

CITY OF

[Handwritten mark]

CLAIM AGAINST Atwater Police Dept.
(Name of Entity)

Claimant's name: Lori A. Johnson

SS#: _____ DOB: _____ Gender: Male _____ Female X

Claimant's address: _____

Address where notices about claim are to be sent, if different from above: _____

Date of incident/accident: November 30, 2015

Date injuries, damages, or losses were discovered: November 30, 2015

Location of incident/accident: _____

What did entity or employee do to cause this loss, damage, or injury? pushed my shoulder and knocked my phone out of my hand cracking
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known)? Zoning Fabian, Don Wisdom, were both in front of me when it happened

What specific injuries, damages, or losses did claimant receive? Cracked the screen of my cell phone
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What amount of money is claimant seeking or, if the amount is in excess of \$10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)] _____

\$550

How was this amount calculated (please itemize)? the amount for a new cell phone \$500 and since then I haven't been able
(Use back of this form or separate sheet if necessary to answer this question in detail.)

Date Signed: Jan 21, 2016 Signature: Lori A Johnson

If signed by representative:
Representative's Name _____ Address _____
Telephone # _____
Relationship to Claimant _____

The screen.

to use my texting or internet can only make and receive calls

City Claim No. 2016-3

CLAIM FORM

FORM B

(Please Type or Print)

JAN 21 2016

10:23 AM

CITY OF ATWATER

CLAIM AGAINST Atwater Police Dept.

Claimant's name: Richard D. Johnson (Name of Entity)

SS#: _____ DOB: _____ Gender: Male Female _____

Claimant's address: _____

Address where notices about claim are to be sent, if different from above: _____

Date of incident/accident: Nov. 30, 2015

Date injuries, damages, or losses were discovered: Nov. 30, 2015

Location of incident/accident: _____

What did entity or employee do to cause this loss, damage, or injury? Tore-down, broke, and took my 8 protest signs

(Use back of this form or separate sheet if necessary to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known)? Zoning-Fabian Vargas, Don Wisdom, Snyder, Lt. Joseph Walker, and several →

What specific injuries, damages, or losses did claimant receive? Strain to shoulder, and money spent on supplies and several hours of →

(Use back of this form or separate sheet if necessary to answer this question in detail.)

What amount of money is claimant seeking or, if the amount is in excess of \$10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)] _____

\$1200⁰⁰

How was this amount calculated (please itemize)? 8 sheets 3/4" plywood \$160, paint \$80, approx. 86 hours of labor @ \$10 an hr \$760, \$200 for shoulder

(Use back of this form or separate sheet if necessary to answer this question in detail.)

Date Signed: 1-21-2018 Signature: [Handwritten Signature]

If signed by representative: _____

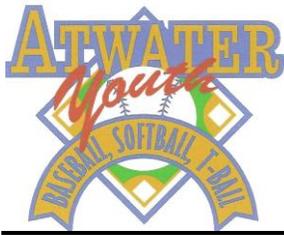
Representative's Name _____ Address _____

Telephone # _____

Relationship to Claimant _____

Other officers, none would give us a
card or badge numbers, the dog catcher,
and 2 public works employees.

labor put into making my signs.



**Atwater Youth Baseball,
Softball, & T-ball**

P.O. Box 148
Atwater, CA 95301
Phone: (209) 358-5965

www.AtwaterYouthBaseball.com

March 7, 2016

Mayor James Price
Atwater City Council
750 Bellevue Rd.
Atwater, CA 95301

Honorable Mayor
Members of the Atwater City Council

It is that time of year again. Atwater Youth Baseball, Softball & T-Ball (AYBS&T) is preparing to begin the 2013 Baseball, Softball and T-ball season. We would like to ask again this year as we have for many years to hold our traditional opening day ceremonies, which begin with the "Procession of Players" and ends with a full day of activities and the traditional throwing of the first ball of the season. Our opening day ceremonies are scheduled for Saturday, March 19, 2016.

AYBS&T would like to request again City Council consideration for assistance by permitting AYBS&T to host the "Procession" beginning at 9:00 AM on opening day in downtown Atwater and ending at Memorial Park. All of our players (ages 4 yrs. thru 14), along with their coaches will gather in the parking lot of the Atwater Elementary School District (AESD) administrative offices (corner of Broadway & 5th St.) and walk through downtown as their families and friends cheer and wave to them en-route to Memorial Park.

Our volunteers are prepared to work with the Police Department and the City's Public Works Department to coordinate the signs to control traffic and parking for a few hours that Saturday morning. Players begin gathering at the AESD parking lot around 8:15 AM and the procession begins at 9:00 AM. The parade arrives and ceremonies begin at approximately 9:30 AM so the opening ceremonies can begin and the much anticipated call of "PLAY BALL" can be heard.

Traffic and street preparation will include:

1. AYB volunteers put up and take down "No Parking" signs to prohibit parking for a few hours Saturday morning in a three block area to include Broadway & 3rd Street
2. We would request that Atwater Public Works Department set out barricades to be ready by 8:00am the morning of the parade at the following intersections:
 - a. 2 Barricades at the corner of the Post Office.
 - b. 4 Barricades on the corner of 5th & Broadway.
 - c. 4 Barricades on the corner of 4th & Broadway.
 - d. 4 Barricades on the corner of 3rd & Broadway.
 - e. 4 Barricades on the corner of 3rd & Cedar.
 - f. 4 Barricades on the corner of 2nd & Cedar.
 - g. 2 Barricades on the corner of Park & Cedar.
 - h. 4 Barricades on the corner of Packers & Cedar.
 - i. 2 Barricades on the corner of Packers & Elm.
3. AYB would like to request the assistance and guidance of the Atwater Police Department in making our way through the Procession of Players and especially in assisting our youth in crossing the street at the corner of Cedar & 1st.

4. AYB volunteers set up and take down the Barricades, located on the corners, prior to and after the Procession of Players.
5. Atwater Public Works Department will then pick-up the barricades, placed back on the corners by AYB, at their convenience.
6. The streets will be open for normal traffic by 10:00 AM.

I would like to extend a personal invitation to each one of you to join us at Memorial Ball Park, at the pitcher's mound, at approximately 9:30 AM for an opportunity to be recognized for your service, hard work and dedication to our youth and community, and to enjoy a morning filled with community pride and excitement.

Sincerely,

Kevin Campodonica
2013 President,
Atwater Youth Baseball,
Softball & T-ball
209-613-0726
Campodonica5@gmail.com

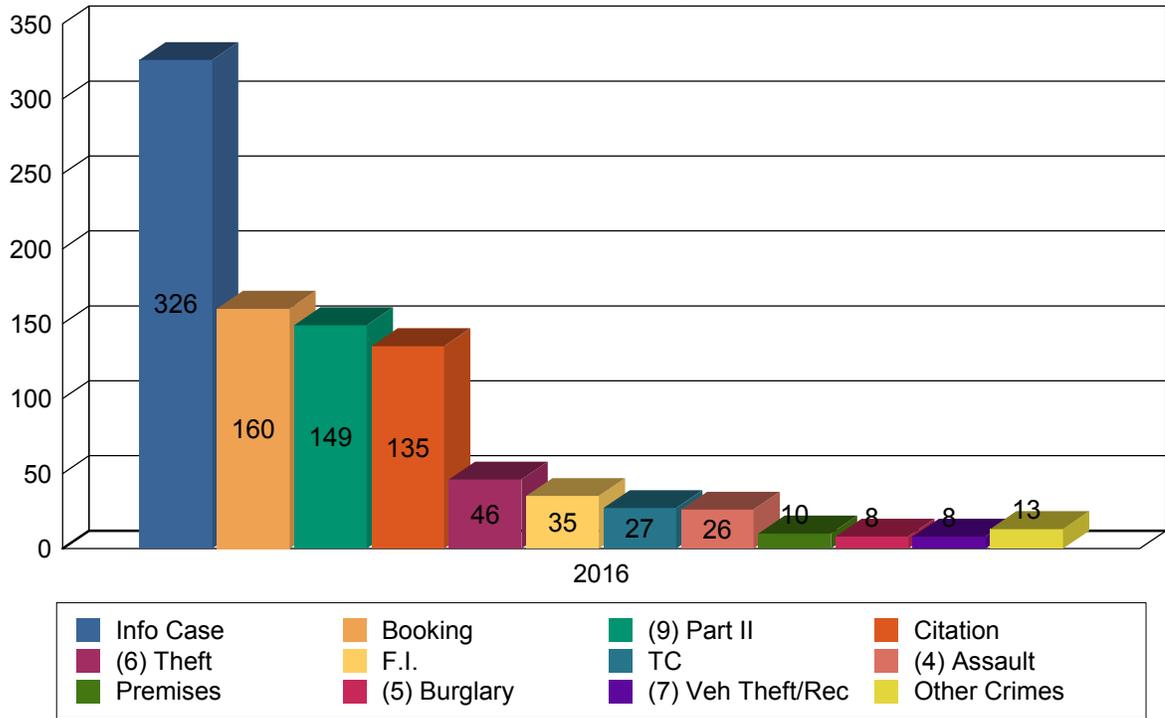
www.AtwaterYouthBaseball.com

Atwater Youth Baseball, Softball & T-ball
P.O. Box 148
Atwater, CA 95301

Incident Directory Report

FEBRUARY 2016

BCS Code by Year



	2016	Total
Info Case	326	326
Booking	160	160
(9) Part II	149	149
Citation	135	135
(6) Theft	46	46
F.I.	35	35
TC	27	27
(4) Assault	26	26
Premises	10	10
(5) Burglary	8	8
(7) Veh Theft/Rec	8	8
Other Crimes	13	13
Grand Total	943	943

Calls for Service	2100
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Incident Directory Report

(2) Rape	1	Supports Drill Down
(4) Assault	26	Supports Drill Down
(5) Burglary	8	Supports Drill Down
(6) Theft	46	Supports Drill Down
(7) Veh Theft/Rec	8	Supports Drill Down
(9) Part II	149	Supports Drill Down
Booking	160	Supports Drill Down
Citation	135	Supports Drill Down
DUI	5	Supports Drill Down
F.I.	35	Supports Drill Down
Info Case	326	Supports Drill Down
Premises	10	Supports Drill Down
Registrant	7	Supports Drill Down
TC	27	Supports Drill Down

**ATWATER POLICE DEPARTMENT
NOTABLE CASES FOR FEBRUARY 2016**

1. A juvenile was located by patrol officers in the area of Determine Dr. and Swaps St. regarding questioning involving the recent shootings. The suspect was questioned and charged for Assault with the Deadly Weapon.
2. The Atwater Police Department Detective Unit along with assisting agencies executed several search warrants involving gang activity and shootings. Several arrests were made as a result, including several suspects in the recent shootings.
3. The Atwater Police Department responded to the area of Swaps Street involving several gunshots being fired. The officers arrived on scene and collected evidence pertaining to the investigation. Detectives arrived and took over the investigation.
4. The Atwater Police Department attempted to stop a vehicle for expired registration. The vehicle failed to yield for the officers and a pursuit ensued. During the pursuit, the suspects fled from the vehicle on foot, leaving the vehicle still moving. The officer was able to place the vehicle in park, preventing an accident. The officers were able to apprehend one of the two suspects.

AVIPS YEAR TASK TOTALS AS OF FEBRUARY 2016

TASKS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEPT	OCT	NOV	DEC	YEARLY TOTALS
Administration	13	9											22
Animal Control	0	1											1
Citizen Assists	2	11											13
Crossing Guard	0	10											10
DUI Check Point	0	0											0
Evidence Transport	9	2											11
Feral Cat Program	0	0											0
Foot Patrol	3	0											3
Funeral	8	4											12
Garage Sales	0	3											3
House Checks	54	48											102
Merced Paperwork	21	21											42
Neighborhood Watch	16	4											20
Notice of Violation	10	19											29
Office	11	10											21
Parade Control	1	0											1
Pawn Tickets	24	24											48
Radar Trailer	0	0											0
Sign Removal	13	71											84
Traffic Control	14	9											23
Training	11	16											27
Vehicle Patrol	35	37											72
Water Contact/Flyer	1	10											11
Water Notice Given	0	1											1
Other	5	35											40

Total Tasks/Month	251	345	0	0	0	0	0	0	0	0	0	0	0	596
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Total Hours/Month	309.75	237.50												547.25
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Total Miles/Month	2264.00	1112.00												3376.00
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**Public Works Department
Project/Activity Report for February 2016**

STREETS & BUILDINGS DIVISION

- Building Maintenance:
 - Replaced non-functioning drinking fountain at Castle Youth Center.
 - Worked with contractor to exterminate ants within the Bloss Home Museum and on the Grounds of the Bloss Home as well.
 - Checked for electrical issues in Motor Cycle Storage Shed at Police Department.
 - Changed door codes at City Hall, Corporation Yard and Fire Station 41.
- Performed sidewalk repairs/replacements at the following location:
 - Removed and replaced damaged/lifted sidewalk at North/West corner of Summerfield Drive and Foxtail Court with one (1) yard of concrete.
- Installed missing, faded and/or damaged street name signs at various locations throughout the City.
- Cleaned two (2) gallons of waste oil that was dumped in the street in front 1901 Rancho Del Rey Drive.
- Repaired non-functioning lights at the lighted crosswalk located at Bellevue Road and Constitution Drive.
- Filled potholes in the following locations using approximately 6,200 pounds of patching material:
 - Fruitland Avenue between Winton Way and Shaffer Road.
 - Winton Way between Olive Avenue and Juniper Avenue.
 - 247 Blasingame Terrace.
 - Several locations on Fiesta Court.
 - Corner of Bellevue Road and Buhach Road.
- Repaired fourteen (14) non functioning Street Lights at the following locations throughout the City:
 - Whipplewood Drive – Pole # A0466
 - Whipplewood Drive – Pole # A0611
 - Corner of Redwood Avenue and Seventh Street – Pole # 1585
 - Bellevue Road – Pole # 4711
 - Corner of Bellevue Road and Winton Way – Pole # A0119
 - Virginia Street – Pole # 798
 - Mitchell Lane – Pole # 0209
 - Buhach Road – Pole # A0322
 - Avenue Two – Pole # A0738
 - Shaffer Road – Pole # A0199M

- 1255 Atwater Boulevard – Pole # A31
- Woodside Court – Pole # A0540
- Woodside Court – Pole # A0539
- 1948 Vistana Court

WATER DIVISION

- Replaced three (3) broken Residential Water Service Lines from the City water main to the City's shut off valve at the following locations:
 - 633 Drakeley Avenue
 - 370 Airpark Road
 - 2801 Belmont Street
- Performed 356 Commercial Water Meter readings.
- Performed 216 Delinquent Water Shut Offs.
- Repaired water leak at USP Atwater Well Site.
- Repaired water leak at Well Site # 18.
- Repaired two (2) separate Main Water Line breaks on Carter Way.
- Due to damage caused by tree roots, repaired water line at 2063 Third Street.
- Performed chemical weed abatement at all Well Sites.

WASTEWATER AND STORM DIVISION

- Cleaned grates and checked storm stations on rainy days
- Manufactured new plumbing at Wedel storm station to be able to hook up a portable pump up to pump down the station
- Cleaned wet well at Castle sewer lift station, replaced a bad motor with a rebuilt motor, and installed a new alarm dialer. Installed new alarm dialers at Industry and Redwood sewer lift stations. Pulled pump and replaced bad bearings at Kansas sewer lift station. Cleaned and checked valves at Stone Creek sewer lift station.
- Cleaned sewer lift stations and clean wet wells as needed
- Log daily flows at the Prison sewer lift station, Castle sewer lift station and Old Base Housing sewer lift station.

EQUIPMENT MAINTENANCE DIVISION

- Performed routine service/maintenance on 14 City vehicles.
- Performed specialty repairs on 30 City vehicles.
- Performed mandatory 90 day inspections on heavy equipment/large vehicles.
- Replaced starter on fire engine/vehicle # 2222.
- Repaired generator that is assigned to Police CSI Van.
- Performed routine services on mowers.

PARKS DIVISION

- Landscape Maintenance Districts:
 - Continued mowing and general maintenance of selected turf and landscaped areas within each LMD on a priority basis.
 - Performed chemical and manual weed abatement within landscaped areas contained in each LMD.
 - Worked with contractor to trim Chinese Pistache Trees on the North side of Juniper Avenue between Bridgewater Street and Glen Abbey Street.
- General Park Maintenance:
 - Continued mowing and mulching of leaves in various park sites on an as needed basis.
 - Due to vandalism, repaired various ramps at Skate Park in Osborn Park.
 - Worked with contractor to repair score/storage room roofs at Miyake Softball Field and Raymond Little League Field.
- Street Side Maintenance:
 - Continued mowing and trimming of turf areas on an as needed basis.
 - Performed chemical and manual weed abatement as needed.
 - Began shrub and small tree maintenance in landscaped area on Channel Avenue between Shaffer Road and Lagoon Avenue.
- Street Tree Work
 - Four (4) stump removals
 - Three (3) tree removals
 - Two (2) clearance/structural prunings
 - Three (3) mistletoe removals
 - Worked with contractor to remove hanging limbs and prune trees on First Street between Cedar Avenue and Juniper Avenue and on the South side of Elm Avenue between First Street and Third Street.

GRAFFITI ABATEMENT

- Worked with Environmental Compliance Resources, the City's Graffiti Abatement Contractor, to remove and paint over graffiti at various locations throughout the City, to include 10 separate street signs. This work was performed with 38 man hours during the month of February 2016. The total amount of graffiti removed during this time period was approximately 6,333 square feet.

March 07, 2016

Honorable Mayor and Members of the
Atwater City Council

City Council Meeting
of March 14, 2016

**ACCEPTING AUDITED FINANCIAL STATEMENTS FOR THE FISCAL
YEAR ENDED JUNE 30, 2015**

RECOMMENDATION:

It is recommended that the City Council consider:

1. Accepting the Audited Financial Statements for the fiscal year ended June 30, 2015.

BACKGROUND

The financial statements of the City of Atwater are subject to an annual independent audit. The City has contracted with the accounting firm of JJACPA, Inc. to conduct this annual financial audit. The auditors have completed their review of the City's financial records for the fiscal year ended June 30, 2015. The audited financial statements were presented to the Audit and Finance Committee on February 22, 2016 and will be filed with the appropriate government and credit agencies as required. The final step in the audit process is for the City Council to accept the audited financial statements.

ANALYSIS

The Independent Auditor's Report indicates that the financial statements present fairly the financial position of the City as of June 30, 2015. The auditor's opinion is "unqualified" which means that the City's financial records accurately reflect the financial activity for the 2014-15 fiscal year. The Auditor's Report includes the following six sections:

- Management's Discussion and Analysis (pages 3-16)
The Management Discussion and Analysis section provides an overview of the information presented in the audited financial statements. Included in this section is comparative revenue, expenditure and net position information as of June 30, 2015 and 2014. Summary information on General Fund activity, capital assets and current economic conditions is also provided.
- Government-Wide Financial Statements (pages 19-21)
The Statement of Net Position and Statement of Activities for the fiscal year ended June 30, 2015 reports in summary form the financial condition and financial activities for all funds segregated as either governmental activities or business-type (enterprise) activities. As indicated on page 19, the City's total unrestricted net position as of June 30, 2015 was negative \$(18,403,620).

- **Financial Statements of Individual Funds (pages 24-39)**
This section of the report provides balance sheet (asset and liability) information and income statement (revenues, expenditures and transfers) information for the General Fund, other non-major governmental funds and for the enterprise funds. As indicated on page 24, the General Fund ended the year with a negative fund balance of (\$3,599,756). The Statement of Net Position for the enterprise funds (pages 34 and 35) reflects the unrestricted net position of the Water Fund as \$191,351, the Sewer Fund as \$10,216,085 and the Sanitation Fund as a negative (\$3,122,336).
- **Notes to Financial Statements (pages 48-90)**
The auditor's report includes 16 notes which provide additional information on the City's financial transactions. Note 6 (page 67) identifies the City's long-term debt obligations. Note 8 (page 70) identifies the funds with negative fund balances as of June 30, 2015. Note 11 (page 75) describes the City's other postemployment (retiree medical) benefit obligation.
- **Other Supplementary Information (pages 90-180)**
This section of the report provides information on the funding status of the City's defined benefit pension and additional detailed financial information on the financial position of the General Fund, special revenue funds and capital project funds as of June 30, 2015.
- **Report on Internal Control (page 181)**
The final section of the auditor's report includes the report on internal control and identifies deficiencies in internal control practices which the auditors feel should be brought to the attention of management and the City Council. The report identifies no deficiencies in internal control which were considered to be material weaknesses.

FISCAL IMPACT

There is no fiscal impact from this requested action.

CONCLUSION

This staff report is submitted for City Council consideration and possible action.

Respectfully submitted,

/s/Lakhwinder Deol

Lakhwinder Deol
Finance Director

Audited Financial Statements

For the fiscal year ended
June 30, 2015

are available as a supplement at the City's website

March 7, 2016

Honorable Mayor and Members
of the Atwater City Council

City Council Meeting
of March 14, 2016

REFINANCING CALPERS SIDE FUND (A PORTION OF THE CITY'S UNFUNDED LIABILITY) FOR THE MISCELLANEOUS AND SAFETY PLANS

RECOMMENDATION:

It is recommended that the City Council consider:

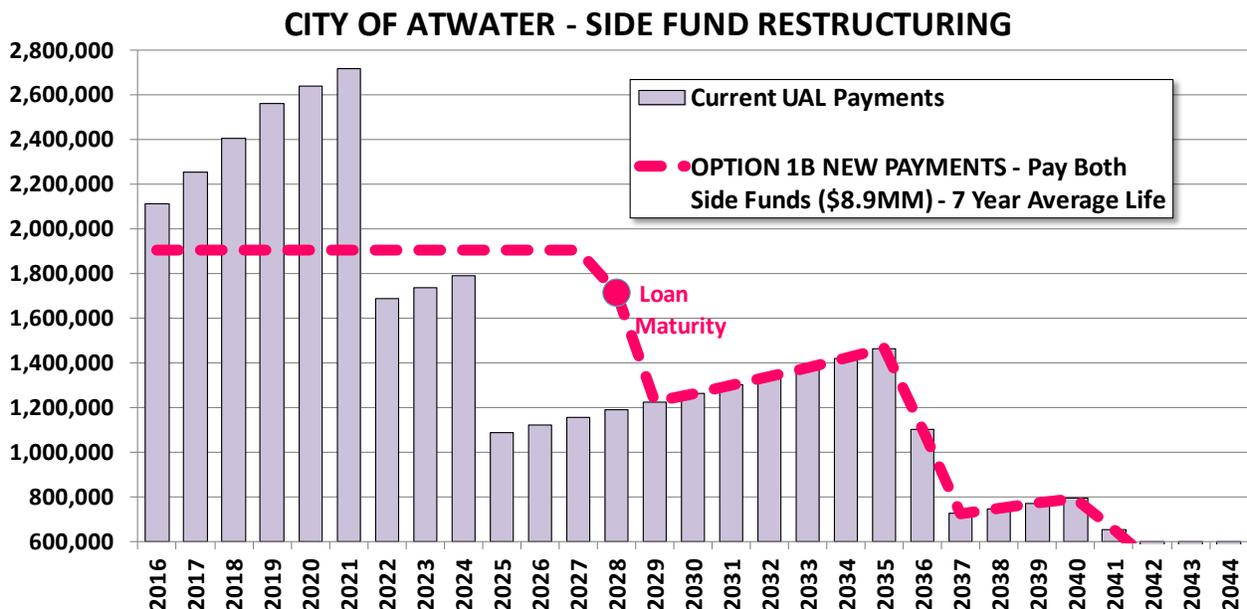
- Adopt Resolution No. 2880-16 approving the form and authorizing the execution and delivery of certain lease financing documents in connection with the refinancing of a portion of the City's outstanding unfunded accrued actuarial liability to the California Public Employees' Retirement System, and providing for other matters properly relating thereto.

BACKGROUND/DISCUSSION:

At its regular meeting of January 11, 2016, the City Council directed staff to pursue a financing strategy to restructure a portion of the City's retirement UAL obligation to CalPERS. The Council was presented with several restructuring options, ranging in size from \$4.7 million to \$8.9 million. All options were also shown with two different maturities, a 9-year average life (2034 final maturity estimated) and a 7-year average life (2029 final maturity estimated). The strategy selected was referred to as "Option 1B" and involved collateralizing certain City assets to secure approximately \$9 million in financing – roughly 46% of the overall UAL - enough to pay off the "side-fund" portion of the UAL for both retirement plans. Final sizing and maturity length will ultimately be determined after negotiations with potential investors/banks through the credit review process as well as timing of the closing.

FISCAL IMPACT:

Restructuring benefits include a more predictable and "smoothed" structure versus the current "un-even" payment structure (see chart below). By removing the current near-term peak in payments, it is estimated that the City will create over \$3.2 million of cash flow savings over the next 6 fiscal years, which will help improve the City's current negative fund balance situation.



Council directed staff to review and assess the City assets to determine and then assign which City assets should be pledged to provide sufficient security for the transaction. The value of those assets are intended to satisfy the “commensurate fair market value test” (i.e., that that total estimated fair market value of the “basket of assets” is at least equal to the proceeds derived from the Refinancing. These various assets are hereby referred to as the “Property.”

The resolution being recommended for adoption essentially authorizes and approves the form of all the foundational legal documents (i.e., the Financing Documents) necessary to provide for the successful consummation of the transaction. Each of the Financing Documents are briefly described as follows:

1. Site and Facility Lease: This is an agreement between the City and the Bank, providing the mechanism of leasing the Property to Bank in exchange for the “loan” of sufficient moneys to accomplish the Refinancing.
2. Lease Agreement: This agreement provides for the lease of Property back to the City in exchange for semi-annual lease payments commensurate with the debt service on the “loan” from the Bank. The City pledges its general fund to repay the lease payments over the term of the Lease Agreement.
3. Refunding Instructions: This document sets forth the City’s instructions as to the specific amounts, terms, and conditions of the Refinancing proceeds and the corresponding prepayment of the UAAL Obligation.

CONCLUSION:

This staff report is submitted for City Council consideration.

Respectfully Submitted by:

/s/ *Lakhwinder Deol*

Lakhwinder Deol
Finance Director



CITY COUNCIL OF THE CITY OF ATWATER

RESOLUTION NO. 2880-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATWATER APPROVING THE FORM AND AUTHORIZING THE EXECUTION AND DELIVERY OF CERTAIN LEASE FINANCING DOCUMENTS IN CONNECTION WITH THE REFINANCING OF A PORTION OF THE CITY'S OUTSTANDING UNFUNDED ACCRUED ACTUARIAL LIABILITY TO THE CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, AND PROVIDING FOR OTHER MATTERS PROPERLY RELATING THERETO

WHEREAS, the City of Atwater (the "City") is a contracting member of the California Public Employees' Retirement System ("CalPERS"), and under its contract with CalPERS the City is obligated to make certain Unfunded Accrued Actuarial Liability (the "UAAL") payments to CalPERS in respect of its (a) retired public safety employees and (b) its retired miscellaneous employees, which UAAL is amortized over a fixed period of time (collectively, the "CalPERS UAAL Obligation"); and

WHEREAS, the City Council, after due investigation and deliberation, has determined at this time, due to prevailing interest rates in the municipal bond market and for other reasons, that it is within the public interests of the City to provide for the refinancing of a portion of the CalPERS UAAL Obligation (the "Refinancing"); and

WHEREAS, in order to provide for the Refinancing, the City proposes to lease certain real property and improvements (the "Property") to a financial institution to be determined at a later date (the "Bank") pursuant to a Site and Facility Lease (the "Site Lease"), dated as of March 1, 2016, by and between the Bank and the City, pursuant to which the Bank agrees to make an upfront lump sum payment in the amount necessary to successfully accomplish the Refinancing (the "Lease Proceeds"); and

WHEREAS, pursuant to a Lease Agreement (the "Lease Agreement"), dated as of March 1, 2016, by and between the Bank and the City, the Bank will sublease the Property back to the City, and will correspondingly make semi-annual lease payments

from its general fund, sufficient in amount to pay back the debt service on the Lease Proceeds advanced by the Bank under the Site Lease; and

WHEREAS, to properly transact the Refinancing, it is now appropriate and necessary for the City to approve the form of Refunding Instructions (the “Refunding Instructions”), dated as of March 1, 2016, pursuant to which the Bank will irrevocably wire transfer the Lease Proceeds directly to CalPERS to prepay a definitive portion of the CalPERS UAAL Obligation in accordance with the specific terms of the Refunding Instructions; and

WHEREAS, the City Council, with the aid of its staff, has reviewed the form of the Site Lease and Lease Agreement, the forms of which are on file with the City Clerk, and the Council wishes at this time to approve the foregoing document (collectively, the “Financing Documents”) as being within the public interests of the City; and

WHEREAS, the City Council wishes at this time to authorize all proceedings relating to the Refinancing and the execution and delivery of Financing Documents and all other agreements and documents relating thereto; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of such financing authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such financing for the purpose, in the manner and upon the terms herein provided.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Atwater, as follows:

Section 1. Findings and Determinations. The City Council hereby finds that the above recitals are true and correct. The City Council determines that it is necessary and desirable to provide for the Refinancing and that the actions authorized hereby constitute, and are in furtherance of, authorized public purposes of the City and will result in public benefits to the City and its constituents.

Section 2. Authorized Representatives. The Mayor, Mayor Pro Tem, City Manager, Finance Director, City Clerk and any other person authorized by the Council to act on behalf of the City shall each be an “Authorized Representative” of the City for the purposes of structuring and providing for the execution of the Financing Documents, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the City, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the Refinancing, and to do any and all things and take any and all actions which may be necessary or advisable, in their discretion, to effectuate the actions and transactions contemplated by this Resolution and the Financing Documents.

Section 3. Approval of Site Lease. The City Council hereby authorizes and approves the lease of the Property to the Bank pursuant to the Site Lease. The City Council hereby approves the Site Lease in substantially the form on file with the City Clerk and consents to such revisions, amendments and completions as shall be approved by an Authorized Representative. Any Authorized Representative of the City is hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest and affix the seal of the City to, the final form of the Site Lease for and in the name and on behalf of the City and the execution thereof shall be conclusive evidence of the City Council's approval of any such additions and changes. The City Council hereby authorizes the delivery and performance of the Site Lease.

Section 4. Approval of Lease Agreement. The City Council hereby authorizes and approves the sublease of the Property back from the Bank pursuant to the Lease Agreement. The City Council hereby approves the Lease Agreement in substantially the form on file with the City Clerk and consents to such revisions, amendments and completions as shall be approved by an Authorized Representative. Any Authorized Representative of the City is hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest and affix the seal of the City to, the final form of the Lease Agreement for and in the name and on behalf of the City and the execution thereof shall be conclusive evidence of the City Council's approval of any such additions and changes. The City Council hereby authorizes the delivery and performance of the Lease Agreement.

Section 5. Approval of Refunding Instructions. The City Council hereby approves the Refunding Instructions in substantially the form on file with the City Clerk and consents to such revisions, amendments and completions as shall be approved by an Authorized Representative. Any Authorized Representative of the City is hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest and affix the seal of the City to, the final form of the Refunding Instructions for and in the name and on behalf of the City and the execution thereof shall be conclusive evidence of the City Council's approval of any such additions and changes. The City Council hereby authorizes the delivery and performance of the Refunding Instructions.

Section 6. Taxable Bond Act. The City Council hereby determines that interest payable pursuant to the Lease Agreement will be subject to federal income taxation, and that the provisions of Section 5900 et seq. of the California Government Code (the "Taxable Bond Act") apply to the Lease Agreement. The City may take any action and exercise any power permitted to be taken by it under the Taxable Bond Act in connection with the execution and delivery of the Lease Agreement.

Section 7. Confirmation and Direction to Proceed with the Refinancing. All actions heretofore taken by the officers and agents of the City with respect to the Refinancing are hereby approved, confirmed and ratified. The Mayor, Mayor Pro Tem, City Manager, Finance Director, City Clerk and all other officers of the City are each authorized and directed in the name and on behalf of the City to make any and all

assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents which they or any of them might deem necessary or appropriate in order to consummate any of the actions and transactions contemplated by this Resolution and the Financing Documents. Whenever any officer of the City is authorized to execute or countersign any document or take any action contemplated by this Resolution and the Financing Documents, such execution, countersigning or action may be taken on behalf of such officer by any person designated by such officer to act on his or her behalf in the case such officer is absent or unavailable.

Section 8. Effective Date. This Resolution shall take effect from and after the date of its passage and adoption.

The foregoing resolution is hereby adopted this 14th day of March, 2016.

AYES:
NOES:
ABSENT:

APPROVED:

JAMES E. PRICE, MAYOR

ATTEST:

JEANNA DEL REAL, CMC
CITY CLERK

RECORDING REQUESTED BY:)
City of Atwater)
)
WHEN RECORDED MAIL TO:)
The Weist Law Firm)
108 Whispering Pines Drive, Suite 235)
Scotts Valley, California 95066)
Attn: Cameron A. Weist)
)

(DO NOT WRITE ABOVE LINE - SPACE FOR RECORDERS USE ONLY)

THIS DOCUMENT IS RECORDED FOR THE BENEFIT OF THE CITY OF ATWATER. THIS TRANSACTION IS EXEMPT FROM DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

SITE AND FACILITY LEASE

by and between

CITY OF ATWATER, CALIFORNIA,
as Lessor

And

_____ **BANK,**
as Lessee

Dated as of April 1, 2016

SITE AND FACILITY LEASE

THIS SITE AND FACILITY LEASE (this “Site and Facility Lease”), dated as of April 1, 2016, is by and between the **CITY OF ATWATER**, a municipal corporation and general law city, duly organized and validly existing under the laws of the State of California (the “City”), as lessor, and _____ **BANK**, a _____ (the “Bank”), as lessee;

WITNESSETH:

WHEREAS, the City desires to finance a portion of its Unfunded Accrued Actuarial Liability to California Public Employees’ Retirement System (the “Project”); and

WHEREAS, in order to finance the Project, the City will lease certain parcels of real property owned by the City, more particularly described in Exhibit A attached hereto and made a part hereof (the “Site”), and those certain improvements thereon (the “Facility” and, together with the Site, the “Property”) to the Bank pursuant to this Site and Facility Lease; and

WHEREAS, the Bank has agreed to lease the Property back to the City pursuant to that certain Lease Agreement, dated as of April 1, 2016, a memorandum of which is recorded in the Office of the County Recorder of the County of Merced concurrently herewith (the “Lease Agreement”); and

WHEREAS, the City possesses statutory authority to lease the Property to the Bank, and its governing body has duly authorized the execution and delivery of the Lease Agreement and this Site and Facility Lease; and

WHEREAS, all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and entering into of this Site and Facility Lease do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into this Site and Facility Lease;

NOW THEREFORE, for and in consideration of the premises and covenants and mutual agreements contained herein and for other valuable consideration, the parties hereto do hereby agree as follows:

Section 1. Definitions. Capitalized terms used, but not otherwise defined, in this Site and Facility Lease shall have the meanings ascribed to them in the Lease Agreement.

Section 2. Site and Facility Lease. The City hereby leases to the Bank and the Bank hereby leases from the City, on the terms and conditions hereinafter set forth, the Property.

Section 3. Term. The term of this Site and Facility Lease shall commence April __, 2016, or the date this Site and Facility Lease or a memorandum thereof is recorded, whichever is later, and shall end on July 1, 20__, unless such term is extended or sooner terminated as hereinafter provided. If, on July 1, 20__, the aggregate amount of Lease Payments (as defined in and as payable under the Lease Agreement) shall not have been paid by reason of abatement, default or otherwise, or provision shall not have been made for their payment in accordance with the Lease Agreement, then

the term of this Site and Facility Lease shall be extended until such Lease Payments shall be fully paid or provision made for such payment, but in no event later than July 1, 20___. If, prior to July 1, 20___, all Lease Payments shall be fully paid or provision made for such payment in accordance with the Lease Agreement, the term of this Site and Facility Lease shall end.

Section 4. Advance Rental Payment. The City agrees to lease the Property to the Bank in consideration of the payment by the Bank of an advance rental payment of \$_____.

Section 5. Purpose. The Bank shall use the Property solely for the purpose of leasing the Property to the City pursuant to the Lease Agreement and for such purposes as may be incidental thereto; provided, however, that in the event of default by the City under the Lease Agreement, the Bank and its assigns may exercise the remedies provided in the Lease Agreement.

Section 6. City's Interest in the Property. The City warrants and covenants that it has sufficient interest in the Property to lease it hereunder. In the event of a title defect in the Property that impairs the right to use and occupy the Property, the City covenants that it will exercise its power, including but not limited to, its condemnation powers to the extent permitted by law, to obtain the necessary rights in the Property and to cure such defect and limitation of the right to use and occupancy.

Section 7. Assignments and Subleases. Unless the City shall be in default under the Lease Agreement, the Bank may not assign its rights under this Site and Facility Lease or sublet the Property, except as provided in the Lease Agreement. If the City is in default under the Lease Agreement, the Bank (including its successors and assigns under the Lease Agreement) may fully and freely assign and sublease the Property or any portion thereof, subject to this Site and Facility Lease.

Section 8. Right of Entry. The City reserves the right for any of its duly authorized representatives to enter upon the Property at any reasonable time to inspect the same or to make any repairs, improvements or changes necessary for the preservation thereof.

Section 9. Termination. The Bank agrees, upon the termination of this Site and Facility Lease, to quit and surrender the Property in the same good order and condition as the same were in at the time of commencement of the term hereunder, reasonable wear and tear excepted, and agrees that any permanent improvements and structures existing upon the Site at the time of the termination of this Site and Facility Lease shall remain thereon and title thereto shall vest in the City.

Section 10. Default. In the event the Bank shall be in default in the performance of any obligation on its part to be performed under the terms of this Site and Facility Lease, which default continues for 30 days following notice and demand for correction thereof to the Bank, the City may exercise any and all remedies granted by law, except that no merger of this Site and Facility Lease and of the Lease Agreement shall be deemed to occur as a result thereof and the City shall have no right to terminate this Site and Facility Lease as a remedy for such default. Notwithstanding the foregoing, so long as the Lease Agreement remains in effect, the City will continue to pay the Lease Payments to the Bank.

In the event of the occurrence of an Event of Default under the Lease Agreement, the Bank may (a) exercise the remedies provided in the Lease Agreement, (b) use the Property for any lawful purpose, subject to any applicable legal limitations or restrictions, and (c) exercise all options provided herein.

Section 11. Quiet Enjoyment. The Bank, at all times during the term of this Site and Facility Lease, shall peaceably and quietly have, hold and enjoy all of the Property subject to the provisions of the Lease Agreement.

Section 12. Waiver of Personal Liability. All liabilities under this Site and Facility Lease on the part of the Bank are solely liabilities of the Bank and the City hereby releases each and every director, officer, employee and agent of the Bank of and from any personal or individual liability under this Site and Facility Lease. No director, officer, employee or agent of the Bank shall at any time or under any circumstances be individually or personally liable under this Site and Facility Lease for anything done or omitted to be done by the Bank hereunder.

Section 13. Taxes. All assessments of any kind or character and all taxes, including possessory interest taxes, levied or assessed upon the Property or the Bank's interest in the Property created by this Site and Facility Lease (including both land and improvements) will be paid by the City in accordance with the Lease Agreement.

Section 14. Eminent Domain. In the event the whole or any part of the Property is taken by eminent domain proceedings, the interest of the Bank shall be recognized and is hereby determined to be the amount of the then unpaid principal component of the Lease Payments, any then unpaid interest component of the Lease Payments and any premium due with respect to the prepayment of Lease Payments to the date such amounts are remitted to the Bank or its assignee, and, subject to the provisions of the Lease Agreement, the balance of the award, if any, shall be paid to the City. The City hereby waives, to the extent permitted by law, any and all rights that it has or may hereafter have to acquire the interest of the Bank in and to the Property through the eminent domain powers of the City. However, the City hereby agrees, to the extent permitted by law, that the compensation to be paid in any condemnation proceedings brought by or on behalf of the City with respect to the Property shall be in an amount not less than the total unpaid principal component of Lease Payments, the interest component of Lease Payments accrued to the date of payment of all Lease Payments and any premium due with respect to the prepayment of Lease Payments under the Lease Agreement.

Section 15. Use of the Proceeds. The City and the Bank hereby agree that the lease to the Bank of the City's right and interest in the Property pursuant to Section 2 serves the public purposes of the City.

Section 16. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Site and Facility Lease shall, to any extent, be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding, order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Site and Facility Lease shall be affected thereby, and each provision of this Site and Facility Lease shall be valid and enforceable to the fullest extent permitted by law.

Section 17. Notices. All notices, statements, demands, consents, approvals, authorizations, offers, designations, requests or other communications hereunder by either party to the other shall be in writing and shall be sufficiently given and served upon the other party if delivered personally or if mailed by United States registered mail, return receipt requested, postage prepaid, at the addresses set forth in the Lease Agreement, or to such other addresses as the respective parties may from time to time designate by notice in writing.

Section 18. Binding Effect. This Site and Facility Lease shall inure to the benefit of and shall be binding upon the City and the Bank and their respective successors and assigns.

Section 19. Amendment. This Site and Facility Lease may not be amended except as permitted under the Lease Agreement.

Section 20. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site and Facility Lease.

Section 21. Applicable Law. This Site and Facility Lease shall be governed by and construed in accordance with the laws of the State of California applicable to contracts made and performed in California.

Section 22. No Merger. Neither this Site and Facility Lease, the Lease Agreement nor any provisions hereof or thereof shall be construed to effect a merger of the title of the City to the Property under this Site and Facility Lease and the City's subleasehold interest therein under the Lease Agreement.

Section 23. Execution in Counterparts. This Site and Facility Lease may be executed in any number of counterparts, each of which shall be deemed to be an original but all together shall constitute but one and the same instrument.

* * * * *

IN WITNESS WHEREOF, the City and the Bank have caused this Site and Facility Lease to be executed by their respective officers thereunto duly authorized, all as of the day and year first above written.

CITY OF ATWATER, CALIFORNIA

By: _____

Attest:

By: _____

_____ BANK,
a _____

By: _____

ALL CAPACITY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF MERCED

On _____, before me, _____
(Date) (Name and Title of officer)

personally appeared _____,
(Name of person signing)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of officer

(Seal)

EXHIBIT A

DESCRIPTION OF THE SITE

All that certain real property situated in the City of Atwater, County of Merced, State of California, described as follows:

[To be determined upon completion of applicable title work and verification of unencumbered status and credit quality acceptable to Bank]

RECORDING REQUESTED BY:)
 City of Atwater)
)
WHEN RECORDED MAIL TO:)
 The Weist Law Firm)
 108 Whispering Pines Drive, Suite 235)
 Scotts Valley, California 95066)
 Attn: Cameron A. Weist)
)

(DO NOT WRITE ABOVE LINE - SPACE FOR RECORDERS USE ONLY)

THIS TRANSACTION IS EXEMPT FROM CALIFORNIA DOCUMENTARY TRANSFER TAX PURSUANT TO SECTION 11929 OF THE CALIFORNIA REVENUE AND TAXATION CODE. THIS DOCUMENT IS EXEMPT FROM RECORDING FEES PURSUANT TO SECTION 27383 OF THE CALIFORNIA GOVERNMENT CODE.

MEMORANDUM OF LEASE AGREEMENT

This Memorandum of Lease Agreement (this “Memorandum of Lease Agreement”), is entered into as of April 1, 2016, by and between _____ BANK, a _____, as sublessor (the “Bank”), and the CITY OF ATWATER, a municipal corporation and general law city duly organized and validly existing under the laws of the State of California, as sublessee (the “City”), who agree as follows:

Section 1. The Lease. The City leases from the Bank and the Bank leases to the City, certain real property described in paragraph 2 hereof, and the improvements situated upon said real property, upon the terms and conditions, and for the term, more fully set forth in the Lease Agreement, dated as of April 1, 2016, by and between the Bank, as sublessor, and the City, as sublessee (the “Lease Agreement”), all of the provisions of which are hereby incorporated into this Memorandum of Lease Agreement by reference.

Section 2. Leased Premises; Term. The Bank leases, lets and demises unto the City and the City leases, hires and takes from the Bank, those certain parcels of real property situated in the County of Merced, State of California, more particularly described in Exhibit A attached hereto and made a part hereof (collectively, the “Site”), and those certain improvements on the Site, more particularly described in Exhibit B attached hereto and made a part hereof (the “Facility”). The Lease Agreement is for a term commencing on the date of recordation of this Memorandum of Lease Agreement and ending on July 1, 20__, or such earlier or later date on which the Lease Payments (as defined in the Lease Agreement) are paid in full or provision has been made for such payment in accordance with the Lease Agreement.

Section 3. Provisions Binding on Successors and Assigns. Subject to the provisions of the Lease Agreement relating to assignment and subletting, the Lease Agreement shall inure to the benefit of and shall be binding upon the Bank and the City and their respective successors and assigns, including the Bank.

Section 4. Purpose of Memorandum. This Memorandum of Lease Agreement is prepared for the purpose of recordation, and it in no way modifies the provisions of the Lease Agreement.

Section 5. Execution. This Memorandum of Lease Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the Bank has caused this Memorandum of Lease Agreement to be executed in its corporate name by its duly authorized officers; and the City has caused this Memorandum of Lease Agreement to be executed in its name by its duly authorized officers, as of the date first above written.

_____ BANK,
a _____

By: _____

CITY OF ATWATER

By: _____

Attest:

By: _____

EXHIBIT A

DESCRIPTION OF THE SITE

All that certain real property situated in the City of Atwater, County of Merced, State of California, described as follows:

[To be determined upon completion of applicable title work and verification of unencumbered status and credit quality acceptable to Bank]

EXHIBIT B

DESCRIPTION OF THE FACILITY

Means those certain existing facilities and improvements presently existing on the Site, including the building, parking areas and related facilities, together with any permitted additions, replacements, modifications or other alterations thereto, and together with and including, all riparian rights, water and water rights, easements, rights-of-way, licenses, franchises, rights of service and use, and the construction of all permissible auxiliary work necessary or convenient for the foregoing.

ALL CAPACITY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF MERCED

On _____, before me, _____
(Date) (Name and Title of officer)

personally appeared _____,
(Name of person signing)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of officer

(Seal)

LEASE AGREEMENT

by and between

_____ **BANK,**
as Sublessor

And

CITY OF ATWATER,
as Sublessee

Dated as of April 1, 2016

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LEASE AGREEMENT

This **LEASE AGREEMENT** (this “Lease” or “Lease Agreement”), dated as of April 1, 2016, is by and between _____ **BANK**, a _____, as sublessor (the “Bank”), and the **CITY OF ATWATER**, a municipal corporation and general law city duly organized and validly existing under the laws of the State of California, as sublessee (the “City”);

WITNESSETH:

WHEREAS, the City desires to finance a portion of its Unfunded Accrued Actuarial Liability to California Public Employees’ Retirement System (the “Project”); and

WHEREAS, pursuant to that certain Site and Facility Lease, dated as of April 1, 2016 (the “Site and Facility Lease”), the City has leased those certain parcels of real property situated in the City of Atwater, County of Merced, State of California, more particularly described in Exhibit A attached hereto and made a part hereof (the “Site”), and those certain improvements thereon, more particularly described in Exhibit B hereto (the “Facility” and, with the Site, the “Property”), to the Bank, all for the purpose of enabling the City to finance (the “Financing”) the Project; and

WHEREAS, the Bank proposes to lease the Property back to the City pursuant to this Lease Agreement; and

WHEREAS, in consideration of the right of possession of, and the continued quiet use and enjoyment of, the Property during each Rental Period (as hereinafter defined) under this Lease Agreement, the City agrees to make certain Lease Payments (as hereinafter defined); and

WHEREAS, the City and the Bank have agreed to enter into this Lease Agreement providing for Lease Payments with an aggregate principal component in the amount of \$_____ for the primary purpose of providing for the Acquisition and Financing of the Property; and

WHEREAS, the City and the Bank agree to mutually cooperate now and hereafter, to the extent possible, in order to sustain the intent of this Lease Agreement and the bargain of both parties hereto.

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises and the covenants hereinafter contained, the parties hereto hereby formally covenant, agree and bind themselves as follows:

ARTICLE I

DEFINITIONS; RULES OF INTERPRETATION

Section 1.01. Definitions. All terms defined in this Section 1.01 have the meanings herein specified for all purposes of this Lease Agreement.

“*Additional Payments*” means the amounts specified as such in Section 4.03(b) of this Lease Agreement.

“*Applicable Environmental Laws*” means and shall include, but shall not be limited to, the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 USC Sections 9601 et seq.; the Resource Conservation and Recovery Act (“RCRA”), 42 USC Sections 6901 et seq.; the Federal Water Pollution Control Act, 33 USC Sections 1251 et seq.; the Clean Air Act, 42 USC Sections 7401 et seq.; the California Hazardous Waste Control Law (“HWCL”), California Health & Safety Code Sections 25100 et seq.; the Hazardous Substance Account Act (“HSAA”), California Health & Safety Code Sections 25300 et seq.; the Porter-Cologne Water Quality Control Act (the “Porter-Cologne Act”), California Water Code Sections 1300 et seq.; the Air Resources Act, California Health & Safety Code Sections 3900 et seq.; the Safe Drinking Water & Toxic Enforcement Act, California Health & Safety Code Sections 25249.5 et seq.; and the regulations under each thereof; and any other local, state, and/or federal laws or regulations, whether currently in existence or hereafter enacted, that govern:

- (a) the existence, cleanup, and/or remedy of contamination on property;
- (b) the protection of the environment from spilled, deposited, or otherwise emplaced contamination;
- (c) the control of hazardous wastes; or
- (d) the use, generation, transport, treatment, removal, or recovery of Hazardous Substances, including building materials.

“*Applicable Law*” means (a) all applicable common law and principles of equity and (b) all applicable provisions of all (i) constitutions, statutes, rules, regulations and orders of all Governmental Authorities, (ii) Applicable Environmental Laws, (iii) applicable seismic building code requirements at the time of construction, and (iv) orders, decisions, judgments, writs, injunctions and decrees of all courts (whether at law or in equity) and arbitrators.

“*Authorized Representative*” means the Mayor, the City Manager, Finance Director, and any other person authorized by resolution of the City Council delivered to the Bank to act on behalf of the City under or with respect to the Site and Facility Lease and this Lease Agreement.

“*Bank*” means _____ Bank, a _____, and any other successor or any other entity to whom the rights of the Bank hereunder are assigned.

“*Bond Counsel*” means (a) The Weist Law Firm, or (b) any other attorney or firm of attorneys of nationally recognized expertise with respect to legal matters relating to obligations the interest on which is excludable from gross income under Section 103 of the Tax Code.

“*Business Day*” means a day other than a Saturday, Sunday or legal holiday, on which banking institutions are not closed in the State.

“*CalPERS*” or “*PERS*” means the California State Public Employees’ Retirement System.

“*CalPERS Contract*” means the contract, as amended from time to time, entered into by the

City and CalPERS, obligating the City to make contributions to CalPERS in exchange for CalPERS providing retirement benefits to certain City employees.

“*City*” means the City of Atwater, California, a municipal corporation and general law city, duly organized and existing under and by virtue of the Constitution and laws of the State of California.

“*City Council*” means the City Council of the City.

“*Closing Date*” means the date that the City receives the Lease Obligation Proceeds from the Bank.

“*Costs of Issuance*” means all items of expense directly or indirectly payable by or reimbursable to the City relating to the Financing of the Property, including but not limited to filing and recording costs, settlement costs, printing costs, reproduction and binding costs, legal fees and charges, insurance fees and charges, financial and other professional consultant fees, and fees for execution, transportation and safekeeping of this Lease Agreement and charges and fees in connection with the foregoing, including, but not limited to, fees of counsel to the Bank and CDIAC fees.

“*Default Rate*” means the rate of interest then applicable to the interest rate with respect to the Lease Payments, plus _%.

“*Environmental Claim*” means any and all actual, alleged or threatened liabilities, claims, actions, causes of action, judgments, liens, orders, inquiries, investigations, studies or notices relating to any Hazardous Substance or any Applicable Environmental Law including without limitation those arising as a result of strict liability, whether under an Applicable Environmental Law or otherwise, and those arising out of the negligence.

“*Event of Default*” means any of the events of default as defined in Section 8.01.

“*Facility*” means those certain existing facilities more particularly described in Exhibit B to the Site and Facility Lease and in Exhibit B to this Lease Agreement.

“*Federal Securities*” means (a) any direct general obligations of the United States of America (including obligations issued or held in book entry form on the books of the Department of the Treasury of the United States of America), for which the full faith and credit of the United States of America are pledged; and (b) obligations of any agency, department or instrumentality of the United States of America, the timely payment of principal and interest on which are fully, unconditionally and directly or indirectly secured or guaranteed by the full faith and credit of the United States of America.

“*Financing*” means the financing of the Project made pursuant to this Lease Agreement.

“*Fiscal Year*” means each twelve-month period during the Term of this Lease Agreement commencing on July 1 in any calendar year and ending on June 30 in the next succeeding calendar year, or any other twelve-month period selected by the City as its fiscal year period.

“*Governmental Authority*” means any governmental or quasi-governmental entity, including any court, department, commission, board, bureau, agency, administration, central bank, service, district or other instrumentality of any governmental entity or other entity exercising executive, legislative, judicial, taxing, regulatory, fiscal, monetary or administrative powers or functions of or pertaining to government, or any arbitrator, mediator or other person with authority to bind a party at law.

“*Hazardous Substance*” means any substance that shall, at any time, be listed as “hazardous” or “toxic” in any Applicable Environmental Law or that has been or shall be determined at any time by any agency or court to be a hazardous or toxic substance regulated under Applicable Environmental Laws; and also means, without limitation, raw materials, building components, the products of any manufacturing, or other activities on the Property, wastes, petroleum, and source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (42 USC Sections 3011 et seq.).

“*Interest Component*” means the portion of each Lease Payment designated as Interest Component, as such is set forth on Exhibit C hereto.

“*Lease Agreement*” or “*Lease*” means this Lease Agreement, dated as of April 1, 2016, between the Bank and the City.

“*Lease Obligation*” means the obligation represented by this Lease Agreement.

“*Lease Obligation Proceeds*” means the \$_____ amount received by the City from the Bank on the Closing Date.

“*Lease Payment Date*” means July 1 and January 1 in each year, commencing July 1, 2016, and continuing to and including the date on which the Lease Payments are paid in full.

“*Lease Payments*” means all payments required to be paid by the City, as such is set forth on Exhibit C hereto, on each Lease Payment Date pursuant to Section 4.03, including any prepayment thereof under Sections 9.02 or 9.03.

“*Material Adverse Effect*” means an event or occurrence which adversely affects in a material manner (a) the assets, liabilities, condition (financial or otherwise), business, facilities or operations of the City, (b) the ability of the City to carry out its business in the manner conducted as of the date of this Lease Agreement or to meet or perform its obligations under this Lease Agreement on a timely basis, or (c) the validity or enforceability of this Lease Agreement.

“*Material Litigation*” means any action, suit, proceeding, inquiry or investigation against the City in any court or before any arbitrator of any kind or before or by any Governmental Authority, which (i) if determined adversely to the City, may have a Material Adverse Effect, (ii) seeks to restrain or enjoin any of the transactions contemplated by this Lease Agreement, or (iii) may adversely affect the ability of the City to perform its obligations under this Lease Agreement.

“*Miscellaneous Employees Plan*” means the obligation of the City to make payments pursuant to the CalPERS Contract with respect to certain of the City’s miscellaneous employees.

“*Net Proceeds*” means any insurance or eminent domain award (including any proceeds of sale to a governmental entity under threat of the exercise of eminent domain powers), paid with respect to the Property, to the extent remaining after payment therefrom of all expenses incurred in the collection thereof.

“*Permitted Encumbrances*” means, as of any time: (a) liens for general ad valorem taxes and assessments, if any, not then delinquent, or which the City may permit to remain unpaid under Article VI of this Lease Agreement; (b) the Site and Facility Lease and this Lease Agreement; (c) any right or claim of any mechanic, laborer, materialman, supplier or vendor not filed or perfected in the manner prescribed by law; (d) the exceptions disclosed in the title insurance policy issued with respect to the Property as of the Closing Date; and (e) any easements, rights of way, mineral rights, drilling rights and other rights, reservations, covenants, conditions or restrictions which exist of record and which the City certifies in writing will not materially impair the use of the Property for its intended purposes.

“*Permitted Investments*” means any of the following which at the time of investment are determined by the City to be legal investments under the laws of the State of California for the moneys proposed to be invested therein:

- (a) Federal Securities;
- (b) obligations of any of the following federal agencies which obligations represent full faith and credit of the United States of America, including: Export-Import Bank, Farmers Home Administration, General Services Administration, U.S. Maritime Administration, Small Business Administration, Government National Mortgage Association, U.S. Department of Housing & Urban Development, and Federal Housing Administration;
- (c) bonds, notes or other evidences of indebtedness rated AAA by S&P and Aaa by Moody’s issued by the Fannie Mae or the Federal Home Loan Mortgage Corporation with remaining maturities not exceeding three years;
- (d) U.S. dollar denominated deposit accounts, secured or unsecured certificates of deposit, demand deposits, including interest bearing money market accounts, trust deposits, trust accounts, time deposits, overnight bank deposits, interest-bearing deposits, federal funds and banker’s acceptances with domestic commercial banks which have a rating on their short term certificates of deposit on the date of purchase of A-1 or A-1+ by S&P and P-1 by Moody’s, and maturing no more than 360 days after the date of purchase;
- (e) commercial paper which is rated at the time of purchase in the single highest classification, A-1+ by S&P and P-1 by Moody’s and which matures not more than 270 days after the date of purchase;
- (f) investments in a money market mutual fund, rated at the time of purchase AAAM or AAAM-G or better by S&P;
- (g) Repurchase and reverse repurchase agreements collateralized with Federal Securities;

(h) any pre-refunded bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and (i) which are rated, at the time of purchase, based on the refunding escrow, in the highest rating category of S&P and Moody's or (ii)(A) which are fully secured as to principal and interest and redemption premium (if any) by a fund consisting only of cash or Federal Securities, which fund may be applied only to the payment of such principal of and interest and redemption premium (if any) in such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates under such irrevocable instructions, as appropriate, and (B) which fund is sufficient, as verified by an Independent Accountant, to pay principal of and interest and redemption premium (if any) on the bonds or other obligations described in this paragraph on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to above, as appropriate;

(i) investment agreements, which are rated, at the time of investment, in the highest rating category of S&P and Moody's;

(j) the Local Agency Investment Fund established under Section 16429.1 of the Government Code of the State of California; and

(k) any other investment permitted under Section 53601 of the California Government Code.

"Principal Component" means the portion of each Lease Payment designated as Principal Component, as such is set forth on Exhibit C hereto.

"Project" means the Financing of a portion of the City's Unfunded Accrued Actuarial Liability to California Public Employees' Retirement System.

"Project Costs" means the costs associated with the Financing of the Project.

"Property" means, collectively, the Site and the Facility.

"Public Safety Employees Plan" means the obligation of the City to make payments pursuant to the CalPERS Contract with respect to the City's public safety employees.

"Refunding Instructions" means the written refunding instructions dated as of April 1, 2016, given by the City to the Bank relating to the wire transfer of Lease Proceeds, and the corresponding prepayment of a definitive portion of the UAAL Obligation.

"Rental Period" means each period during the Term of the Lease commencing on and including July 1 in each year and extending to and including the next succeeding June 30. The first Rental Period begins on the Closing Date and ends on June 30, 2016.

"Resolution" means the Resolution No. ____, adopted by the City Council on March __, 2016, authorizing and otherwise providing for the execution and delivery of this Lease Agreement.

"Site" means that certain real property more particularly described in Exhibit A to the Site and Facility Lease and in Exhibit A to this Lease Agreement.

“*Site and Facility Lease*” means the Site and Facility Lease, dated as of April 1, 2016, by and between the City, as lessor, and the Bank, as lessee, together with any duly authorized and executed amendments thereto.

“*State*” means the State of California.

“*Term of this Lease Agreement*” or “*Term*” means the time during which this Lease Agreement is in effect, as provided in Section 4.02.

“*UAAL Obligation*” means the Unfunded Accrued Actuarial Liability obligation of the City under the CalPERS Contract to make payments to CalPERS with respect to benefits accruing to retired public safety employees and certain other employees of the City under the Public Safety Employees Plan and the Miscellaneous Employees Plan.

“*Written Request*” means a request in writing signed by Authorized Representative, or by any other officer of the City duly authorized for that purpose.

Section 1.02. Interpretation.

(a) Unless the context otherwise indicates, words expressed in the singular include the plural and vice versa and the use of the neuter, masculine, or feminine gender is for convenience only and include the neuter, masculine or feminine gender, as appropriate.

(b) Headings of articles and sections herein and the table of contents hereof are solely for convenience of reference, do not constitute a part hereof and do not affect the meaning, construction or effect hereof.

(c) All references herein to “Articles,” “Sections” and other subdivisions are to the corresponding Articles, Sections or subdivisions of this Lease Agreement; the words “herein,” “hereof,” “hereby,” “hereunder” and other words of similar import refer to this Lease Agreement as a whole and not to any particular Article, Section or subdivision hereof.

ARTICLE II

COVENANTS, REPRESENTATIONS AND WARRANTIES

Section 2.01. Covenants, Representations and Warranties of the City. The City makes the following covenants, representations and warranties to the Bank as of the date of the execution and delivery of this Lease Agreement:

(a) ***Due Organization and Existence.*** The City is a municipal corporation and general law city duly organized and validly existing under the laws of the State of California, with full legal right, power and authority under the laws of the State to enter into the Site and Facility Lease and this Lease Agreement and to carry out and consummate all transactions on its part contemplated hereby and thereby.

(b) ***Due Execution.*** By all necessary official action, the City has duly adopted the Resolution, has duly authorized and approved the execution and delivery of, and the

performance of its obligations under, this Lease Agreement, the Site and Facility Lease, and the consummation by it of all other transactions contemplated by this Lease Agreement, the Site and Facility Lease and the Resolution. The Authorized Representative executing the Site and Facility Lease and this Lease Agreement has been fully authorized to execute the same.

(c) ***Valid, Binding and Enforceable Obligations.*** The Site and Facility Lease and this Lease Agreement have been duly authorized, executed and delivered by the City and constitute the legal, valid and binding agreements of the City enforceable against the City in accordance with their respective terms.

(d) ***No Conflicts.*** The execution and delivery of the Site and Facility Lease and this Lease Agreement, the consummation of the transactions therein and herein contemplated and the fulfillment of or compliance with the terms and conditions thereof and hereof, do not and will not conflict with or constitute a violation or breach of or default (with due notice or the passage of time or both) under any applicable law or administrative rule or regulation, or any applicable court or administrative decree or order, or any indenture, mortgage, deed of trust, lease, contract or other agreement or instrument to which the City is a party or by which it or its properties are otherwise subject or bound, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City, which conflict, violation, breach, default, lien, charge or encumbrance would have consequences that would materially and adversely affect the consummation of the transactions contemplated by the Site and Facility Lease or this Lease Agreement, or the financial condition, assets, properties or operations of the City.

(e) ***Consents and Approvals.*** No consent or approval of any trustee or holder of any indebtedness of the City or of the voters of the City, and no consent, permission, authorization, order or license of, or filing or registration with, any Governmental Authority is necessary in connection with the execution and delivery of the Site and Facility Lease and this Lease Agreement, or the consummation of any transaction therein and herein contemplated, except as have been obtained or made and as are in full force and effect.

(f) ***No Litigation.*** There is no action, suit, proceeding, inquiry or investigation before or by any court or federal, state, municipal or other Governmental Authority pending and notice of which has been served on the City or, to the knowledge of the City after reasonable investigation, threatened against or affecting the City or the assets, properties or operations of the City which, if determined adversely to the City or its interests, would have a Material Adverse Effect, and the City is not in default with respect to any order or decree of any court or any order, regulation or demand of any federal, state, municipal or other Governmental Authority, which default might have consequences that would materially and adversely affect the consummation of the transactions contemplated by this Lease Agreement.

(g) ***Sufficient Funds.*** The City reasonably believes that sufficient funds can be obtained to make all Lease Payments and all other amounts required to be paid pursuant to this Lease Agreement.

(h) **Fee Title.** The City is the owner in fee of title to the Property. The City has disclosed all known liens and encumbrances to the Bank, and no lien or encumbrance on the Property materially impairs the City's use of the Property for the purposes for which it is, or may reasonably be expected to be, held.

(i) **Use of the Property, Essentiality.** During the term of this Lease Agreement, the Property will be used by the City only for the purpose of performing one or more governmental or proprietary functions of the City consistent with the permissible scope of the City's authority. The City considers the Property to be essential to the City's efficient and economic operations, and the lease thereof for use by the City is in the best interest of the City.

(j) **Hazardous Substances.** The Property is free of all Hazardous Substances, and the City is in full compliance with all Applicable Environmental Laws.

(k) **Flooding Risk.** The Property is not located in a flood hazard area and has never been subject to material damage from flooding.

(l) **Value of Property.** The value of the Property (real property replacement cost) is not less than \$_____.

(m) **Financial Statements.** The statement of financial position of the City as of June 30, 2015, and the related statement of activities and statement of cash flows and changes in financial position for the year then ended and the auditors' reports with respect thereto, copies of which have heretofore been furnished to the Bank, are complete and correct and fairly present the financial condition, changes in financial position and results of operations of the City at such date and for such period, and were prepared in accordance with generally accepted accounting principles. Since the period of such statements, there has been no (i) change which would have a Material Adverse Effect and (ii) no material increase in the indebtedness of the City.

(n) **No Material Adverse Change.** Since the most current date of the information, financial or otherwise, supplied by the City to the Bank:

(i) There has been no change in the assets, liabilities, financial position or results of operations of the City which might reasonably be anticipated to cause a Material Adverse Effect.

(ii) The City has not incurred any obligations or liabilities which might reasonably be anticipated to cause a Material Adverse Effect.

(iii) The City has not (A) incurred any material indebtedness, other than the Lease Payments, and trade accounts payable arising in the ordinary course of the City's business and not past due, or (B) guaranteed the indebtedness of any other person.

(o) **Compliance with Procurement Laws.** The City has complied with all applicable procurement laws with respect to the execution and delivery of this Lease

Agreement.

(p) ***Due Authorization and Payment.*** All of the Lease Payments and other payments hereunder have been, or shall be, duly authorized and paid when due out of funds then on hand and legally available for such purposes.

(q) ***No Default or Non-Appropriation.*** The City has never non-appropriated or defaulted under any of its payment or performance obligations or covenants, either under any financing lease of the same general nature as this Lease Agreement, or under any of its bonds, notes, certificates of participation, or other debt obligations.

(r) ***Foreseeable need for the Property.*** There are no circumstances presently affecting the City that could be reasonably expected to alter its foreseeable need for the Property or adversely affect its ability or willingness to budget funds for the payment of the Lease Payments and other payments due hereunder.

(s) ***Taxable Lease.*** The City Council has determined that the Interest Components of the Lease Payments will be subject to federal income taxation.

(t) ***Property.*** The Property complies with all applicable restrictive covenants, zoning ordinances, building laws and other Applicable Laws (including without limitation, the Americans with Disabilities Act, as amended).

(u) ***No Condemnation.*** The City hereby covenants and agrees, to the extent it may lawfully do so, that so long as any amounts are owed to the Bank, that it will not exercise the power of condemnation with respect to the Property. The City further covenants and agrees, to the extent it may lawfully do so, that if for any reason the foregoing covenant is determined to be unenforceable or if the City should fail or refuse to abide by such covenant and condemns the Property, the appraised value of the Property shall not be less than the greater of (i) if such Lease Payments are then subject to prepayment, or (ii) if such Lease Payments are not then subject to prepayment, the amount necessary to prepay the Lease Payments to the first available prepayment date.

(v) ***Accuracy of Information.*** To the knowledge of the Authorized Representative executing this Lease Agreement, (i) all information, reports and other papers and data furnished by the City to the Bank were, at the time the same were so furnished, complete and accurate in all material respects and insofar as necessary to give the Bank a true and accurate knowledge of the subject matter and were provided in expectation of the Bank's reliance thereon in entering into the transactions contemplated by this Lease Agreement; (ii) no fact is known to the City which has had or, so far as the City can now reasonably foresee, may in the future have a Material Adverse Effect, which has not been set forth in the financial statements previously furnished to the Bank or in other such information, reports, papers and data or otherwise disclosed in writing to the Bank prior to the Closing Date; (iii) any financial, budget and other projections furnished to the Bank by the City or its or their agents were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair and reasonable in light of the conditions existing at the time of delivery of such financial, budget or other projections, and represented, and as of the date of this representation, represent the City's best estimate of its future financial

performance; and (iv) no document furnished nor any representation, warranty or other written statement made to the Bank in connection with the negotiation, preparation or execution of this Lease Agreement contains or will contain any untrue statement of a material fact or omits or will omit to state (as of the date made or furnished) any material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they were or will be made, not misleading.

(w) **Role of Bank.** The City acknowledges that (i) the Bank is acting solely for its own loan account and not as a fiduciary for the City or in the capacity of broker, dealer, municipal securities underwriter or municipal advisor, (ii) the Bank has not provided, and will not provide, financial, legal (including securities law), tax, accounting or other advice to or on behalf of the City with respect to the Lease Payments, (iii) the Bank has expressed no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, if any, or the correctness of any legal interpretation made by counsel to any other party, if any, with respect to any such matters, and (iv) the City has sought and obtained financial, legal, tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters) with respect to the financing effectuated through this Lease Agreement from its financial, legal and other advisors to the extent that the City desired to obtain such advice.

Section 2.02. Covenants, Representations and Warranties of the Bank. The Bank makes the following covenants, representations and warranties to the City as of the date of the execution and delivery of this Lease Agreement:

(a) the Bank has been duly organized and is validly existing as a banking corporation under the laws of the State of _____ with full corporate power to enter into and undertake its duties and obligations hereunder and has sufficient knowledge and experience in financial and business matters to be able to evaluate the economic risks and merits of the investment represented by the Lease Obligation;

(b) the execution, delivery and performance of this Lease Agreement and the Site and Facility Lease have been duly authorized by all necessary corporate actions on the part of the Bank and do not require any further approvals or consents;

(c) to the knowledge of the officer executing this Lease Agreement, the execution, delivery and performance of this Lease Agreement and the Site and Facility Lease do not and will not result in any breach of or constitute a default under any indenture, mortgage, contract, agreement or instrument to which the Bank is a party by which it or its property is bound;

(d) to the knowledge of the officer executing this Lease Agreement, there is no pending or, to the knowledge of the Bank, threatened action or proceeding before any court or administrative agency which will materially adversely affect the ability of the Bank to perform its obligations under this Lease Agreement and the Site and Facility Lease;

(e) the Bank will not mortgage or encumber the Property or this Lease Agreement or assign this Lease Agreement or its rights to receive Lease Payments hereunder, except as expressly permitted herein or in the Site and Facility Lease; and

(f) the Bank will deliver to the City a certificate substantially in the form set forth in Exhibit D attached hereto.

ARTICLE III

DEPOSIT AND APPLICATION OF LEASE PROCEEDS

Section 3.01. Deposit of and Application of Lease Proceeds. The City hereby instructs the Bank (to which instruction the Bank hereby assents) to set-aside a portion of the Lease Proceeds in the approximate amount of \$_____ (the "COI Set-Aside Funds") for the payment of Costs of Issuance on behalf of the City as provided in Section 3.02. The City hereby instructs the Bank (to which the Bank also assents) to wire the amount of (i) \$_____ directly to CalPERS, in accordance with the Refunding Instructions, in satisfaction of a portion of the City's obligations under the CalPERS Contract with respect to the Public Safety Employees Plan UAAL Obligations, and (ii) \$_____ directly to CalPERS, in accordance with Refunding Instructions, in satisfaction of a portion of the City's obligations under the CalPERS Contract with respect to the Miscellaneous Employees Plan UAAL Obligations.

Section 3.02. Application of Costs of Issuance Set-Aside Funds. The COI Set-Aside Funds held by the Bank on behalf of the City pursuant to Section 3.01 shall be used by the Bank to pay the Costs of Issuance upon submission of sequentially numbered written Requisitions of the City, substantially in the form attached hereto as Exhibit E. Upon the Request of the City, but in no event later than seven (7) calendar days after the Closing Date, any remaining amounts of COI Set-Aside Funds shall be transferred by the Bank to the City.

ARTICLE IV

SUBLEASE OF PROPERTY; LEASE PAYMENTS; SUBSTITUTION, ADDITION OR RELEASE

Section 4.01. Sublease of Property; No Merger.

(a) **Sublease.** The Bank hereby subleases the Property to the City, and the City hereby subleases the Property from the Bank, upon the terms and conditions set forth in this Lease Agreement.

(b) **No Merger.** The leasing of the Property by the City to the Bank pursuant to the Site and Facility Lease shall not affect or result in a merger of the City's subleasehold estate pursuant to this Lease Agreement and its fee estate as lessor under the Site and Facility Lease.

Section 4.02. Term. The Term of this Lease Agreement commences on April __, 2016, or the date this Lease Agreement or a memorandum thereof is recorded, whichever is later, and ends on July 1, 20__, or the date on which all of the Lease Payments have been paid in full. If on July 1, 20__, the Lease Payments payable hereunder shall have been abated at any time and for any reason and not otherwise paid from rental interruption insurance or other sources, or the City shall have defaulted in its payment of Lease Payments hereunder or any Event of Default has occurred and

continues without cure by the City, then the term of this Lease Agreement shall be extended for the actual period of abatement or for so long as the default remains uncured, as necessary to accommodate the final payment of all Lease Payments due hereunder, not to exceed 10 years. The provisions of this Section 4.02 are subject to the provisions of Section 6.01 relating to the taking in eminent domain of the Property or any portion thereof.

Section 4.03. Lease Payments.

(a) **Obligation to Pay.** Subject to the provisions of Sections 6.01 and 6.03 and the provisions of Article IX, the City hereby agrees to repay the Lease Obligation in the aggregate principal amount of \$ _____ together with interest (calculated at the rate of ___%, on the basis of a 360-day year of twelve 30-day months) on the unpaid principal balance thereof, payable in semi-annual Lease Payments in the respective amounts and on the respective Lease Payment Dates specified in Exhibit C hereto, and by this reference made a part hereof. The City understands that the Bank will send an invoice to the City in advance of each Lease Payment Date.

(b) **Additional Payments.** In addition to the Lease Payments set forth herein, the City agrees to pay as Additional Payments all of the following:

(i) Subject to Section 5.01, all taxes and assessments of any nature whatsoever, including but not limited to excise taxes, ad valorem taxes, ad valorem and specific lien special assessments and gross receipts taxes, if any, levied upon the Property or upon any interest of the Bank therein or in this Lease Agreement;

(ii) insurance premiums, if any, on all insurance required under the provisions of Article V hereof;

(iii) any other reasonable fees, costs or expenses incurred by the Bank in connection with the execution, performance or enforcement of this Lease Agreement or any of the transactions contemplated hereby or related to the Property, including, without limitation, reasonable legal expenses in connection with the enforcement of this Lease Agreement and any amounts which may become due; provided, however, the City shall not be responsible for any costs incurred by the Bank associated with any assignment of this Lease Agreement;

(iv) any amounts required to be paid as rebate to the United States; and

(v) such amounts sufficient to indemnify the Bank and to pay all amounts due under Section 7.03.

Amounts constituting Additional Payments payable hereunder shall be paid by the City directly to the person or persons to whom such amounts shall be payable. The City shall pay all such amounts when due or at such later time as such amounts may be paid without penalty or, in any other case, within 30 days after notice in writing from the Bank to the City stating the amount of Additional Payments then due and payable and the purpose thereof.

(c) ***Effect of Prepayment.*** If the City prepays all Lease Payments in full under Sections 9.02 or 9.03, the City's obligations under this Section will thereupon cease and terminate; provided, however, that the City's obligation to indemnify the Bank pursuant to Section 7.03 hereof shall survive the termination of this Lease Agreement. If the City prepays the Lease Payments in part but not in whole under Section 9.03, the Principal Components of the remaining Lease Payments will be reduced on a pro rata basis; and the Interest Component of each remaining Lease Payment will be reduced on a pro rata basis.

(d) ***Rate on Overdue Payments.*** If the City fails to make any of the payments required in this Section 4.03, the payment in default will continue as an obligation of the City until the amount in default has been fully paid, and the City agrees to pay the same with interest thereon, from the date of default to the date of payment at the interest rate set forth in Section 4.03(a) plus _____ percent (_%), or any lesser maximum rate as may be required by law.

(e) ***Fair Rental Value.*** The Lease Payments coming due and payable during each Rental Period constitute the total rental for the Property for such Rental Period, and will be paid by the City in each Rental Period for and in consideration of the right of the use and occupancy of, and the continued quiet use and enjoyment of the Property during each Rental Period. The parties hereto have agreed and determined that the total Lease Payments due during each Rental Period are not in excess of the fair rental value of the Property during such Rental Periods. In making this determination, consideration has been given to the estimated fair market value of the Property, the estimated replacement cost of the Property, the uses and purposes which may be served by the Property and the benefits therefrom which will accrue to the City and the general public.

(f) ***Source of Payments; Budget and Appropriation.*** The Lease Payments are payable from an irrevocable pledge of legally available funds of the City, subject to the provisions of Sections 6.01, 6.03 and 9.01. The City covenants to take such action as may be necessary to include all Lease Payments in each of its annual budgets during the Term of this Lease Agreement and to make the necessary annual appropriations for all such Lease Payments. The covenants on the part of the City herein contained constitute duties imposed by law and it is the duty of each and every public official of the City to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the City to carry out and perform the covenants and agreements in this Lease Agreement agreed to be carried out and performed by the City.

(g) ***Allocation of Lease Payments.*** All Lease Payments received shall be applied first to the Interest Components of the Lease Payments due hereunder, then to the Principal Components of the Lease Payments due hereunder, but no such application of any payments that are less than the total rental due and owing shall be deemed a waiver of any default hereunder.

(h) ***No Offsets.*** Notwithstanding any dispute between the Bank and the City, the City shall make all Lease Payments when due without deduction or offset of any kind and shall not withhold any Lease Payments pending the final resolution of such dispute.

(i) ***Payments under this Lease Agreement.*** The Bank hereby directs the City,

and the City hereby agrees, to pay to the Bank (or to its assignees as directed pursuant to Section 7.04 hereof) all payments payable by the City under this Section 4.03 and all amounts payable by the City under Article IX. So long as the Lease Obligation is owned by the Bank, all principal and interest payments with respect to the Lease Obligation shall be made by wire transfer using the following wiring instructions (unless the City shall receive subsequent wiring instructions from the Bank):

_____ Bank
Attn: _____
Account # _____
Routing # _____
Note in comments: Loan # _____

Section 4.04. Quiet Enjoyment. Throughout the Term of this Lease Agreement, the Bank will provide the City with quiet use and enjoyment of the Property and the City will peaceably and quietly have and hold and enjoy the Property, without suit, trouble or hindrance from the Bank, except as expressly set forth in this Lease Agreement. The Bank will, at the request of the City and at the City's cost, join in any legal action in which the City asserts its right to such possession and enjoyment to the extent the Bank may lawfully do so. Notwithstanding the foregoing, the Bank has the right to inspect the Property as provided in Sections 5.12(c) and 7.02.

Section 4.05. Title. At all times during the Term of this Lease Agreement, the City shall hold title to the Property, including all additions which comprise fixtures, repairs, replacements or modifications thereto, subject to Permitted Encumbrances and subject to the provisions of Section 7.02. Upon the termination of this Lease Agreement (other than under Section 8.02(b) hereof), all right, title and interest of the Bank in and to the Property shall be transferred to and vested in the City. Upon the payment in full of all Lease Payments allocable to the Property, or upon the deposit by the City of security for such Lease Payments as provided in Section 9.01, all right, title and interest of the Bank in and to the Property shall be transferred to and vested in the City. The Bank agrees to take any and all steps and execute and record any and all documents reasonably required by the City to consummate any such transfer.

Section 4.06. Substitution, Addition or Release of the Property. The City shall have the right to substitute alternate real property for any portion of, or add additional real property to the Property, or to release a portion of the Property from this Lease Agreement. All costs and expenses incurred in connection with such substitution, addition or release (including all reasonable costs, expenses and attorneys' fees incurred by the Bank) shall be borne by the City. Notwithstanding any substitution, addition or release of Property pursuant to this subsection, there shall be no reduction in or abatement of the Lease Payments due from the City hereunder as a result of such substitution, addition or release. Any such substitution, addition or release of any portion of the Property shall be subject to the following specific conditions, which are hereby made conditions precedent to such substitution, addition or release:

(a) The City shall first receive written authorization and approval from the Bank, which authorization and approval shall not be unreasonably denied by the Bank so long as the conditions set forth below are satisfied;

(b) No Event of Default shall have occurred and be continuing, and no event giving rise

to an abatement of Lease Payments under Section 6.03 hereof shall have occurred and be continuing;

(c) An independent certified real estate appraiser selected by the City shall have found (and shall have delivered a certificate to the City and the Bank setting forth its findings) that the Property, as constituted after such substitution, addition or release, (i) has an annual fair rental value greater than or equal to 105% of the maximum Lease Payments payable by the City in any Rental Period, and (ii) has a useful life equal to or greater than the useful life of the Property, as constituted prior to such substitution, addition or release;

(d) The property to be substituted or added must be owned in fee simple by the City and be free of any liens and encumbrances that would impair the use of the property for its intended purpose, and the City shall have obtained or caused to be obtained a CLTA title insurance policy or policies with respect to any substituted or additional property in the amount of the fair market value of such substituted or additional property, of the type described in Section 5.07 hereof;

(e) In the case of substituted or additional property, the City agrees to provide any required surveys, environmental reports, or other diligence items related to such proposed substituted or additional property that are reasonably required by the Bank; and

(f) The City and the Bank shall have executed, and the City shall have caused to be recorded with the Merced County Recorder, any document necessary to reconvey to the City the portion of the Property being substituted or released and to include any substituted or additional real property in the description of the Property contained herein and in the Site and Facility Lease; and

ARTICLE V

MAINTENANCE; TAXES; INSURANCE; AND OTHER MATTERS

Section 5.01. Maintenance, Utilities, Taxes and Assessments. Throughout the Term of this Lease Agreement, as part of the consideration for the rental of the Property, all improvement, repair and maintenance of the Property are the sole responsibility of the City, and the City will pay for or otherwise arrange for the payment of all utility services supplied to the Property, which may include, without limitation, janitor service, security, power, gas, telephone, light, heating, water and all other utility services, and shall pay for or otherwise arrange for the payment of the cost of the repair and replacement of the Property resulting from ordinary wear and tear or want of care on the part of the City or any assignee or sublessee thereof. In exchange for the Lease Payments herein provided, the Bank agrees to provide only the Property, as hereinbefore more specifically set forth. The City waives the benefits of subsections 1 and 2 of Section 1932, Section 1933(4) and Sections 1941 and 1942 of the California Civil Code, but such waiver does not limit any of the rights of the City under the terms of this Lease Agreement.

The City will pay or cause to be paid all taxes and assessments of any type or nature, if any, charged to the Bank or the City affecting the Property or the respective interests or estates therein; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, the City is obligated to pay only such installments as are required to be paid during the Term of this Lease Agreement as and when the same become due.

The City may, at the City's expense and in its name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless the Bank shall notify the City that, in the opinion of Bond Counsel, by nonpayment of any such items, the interest of the Bank in the Property will be materially endangered or the Property or any part thereof will be subject to loss or forfeiture, in which event the City will promptly pay such taxes, assessments or charges or provide the Bank with full security against any loss which may result from nonpayment, in form satisfactory to the Bank. The City shall promptly notify the Bank of any tax, assessment, utility or other charge it elects to contest.

Section 5.02. Modification of Property. The City has the right, at its own expense, to make additions, modifications and improvements to the Property or any portion thereof. All additions, modifications and improvements to the Property will thereafter comprise part of the Property and become subject to the provisions of this Lease Agreement. Such additions, modifications and improvements may not in any way damage the Property, or cause the Property to be used for purposes other than those authorized under the provisions of State and federal law; and the Property, upon completion of any additions, modifications and improvements made thereto under this Section, must be of a value which is not substantially less than the value thereof immediately prior to the making of such additions, modifications and improvements.

Section 5.03. Public Liability Insurance. The City shall maintain or cause to be maintained throughout the Term of this Lease Agreement a standard comprehensive general liability insurance policy or policies in protection of the City, the Bank and their respective members, officers, agents, employees and assigns. Said policy or policies shall provide for indemnification of said parties against direct or contingent loss or liability for damages for bodily and personal injury, death or property damage occasioned by reason of the operation of the Property. Such policy or policies must provide coverage with limits of at least \$1,000,000 per occurrence, and \$2,000,000 in the aggregate, for bodily injury and property damage coverage, and in all events in form and amount (including any deductibles) satisfactory to the Bank.

Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City (including, with Bank's prior written consent, a self-insurance program), and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance. The City will apply the proceeds of such liability insurance toward extinguishment or satisfaction of the liability with respect to which such proceeds have been paid.

Section 5.04. Casualty Insurance. The City will procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease Agreement, casualty insurance against loss or damage to all buildings situated on the Property and owned by the City, in an amount at least equal to the greater of the replacement value of the insured buildings and the aggregate principal amount of the Lease Payments outstanding, with a lender's loss payable endorsement. Such insurance must, as nearly as practicable, cover loss or damage by all "special form" perils. Such insurance shall be subject to a deductible of not to exceed \$25,000. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City (including, with the Bank's prior written consent, a self-insurance program), and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance. The City will apply the Net Proceeds of such insurance as

provided in Section 6.02.

Section 5.05. Rental Interruption Insurance. The City will procure and maintain, or cause to be procured and maintained, throughout the Term of this Lease Agreement, rental interruption or use and occupancy insurance to cover loss, total or partial, of the use of the Property and the improvements situated thereon as a result of any of the hazards covered in the insurance required by Section 5.04, in an amount at least equal to the maximum Lease Payments coming due and payable during any future 24 month period. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City, and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance; provided that such rental interruption insurance shall not be self-insured by the City. The City will apply the Net Proceeds of such insurance towards the payment of the Lease Payments allocable to the insured improvements as the same become due and payable.

Section 5.06. Worker's Compensation Insurance. If required by applicable California law, the City shall carry worker's compensation insurance covering all employees on, in, near or about the Property and, upon written request, shall furnish to the Bank certificates evidencing such coverage throughout the Term of this Lease Agreement. Such insurance may be maintained as part of or in conjunction with any other insurance coverage carried by the City (including a self insurance program), and may be maintained in whole or in part in the form of the participation by the City in a joint powers authority or other program providing pooled insurance.

Section 5.07. Recordation Hereof; Title Insurance. On or before the Closing Date, the City shall, at its expense, (a) cause this Lease Agreement and the Site and Facility Lease, or a memorandum hereof or thereof in form and substance approved by Bond Counsel, to be recorded in the office of the Merced County Recorder with respect to the Property, and (b) obtain a CLTA title insurance policy insuring the Bank's interests in the leasehold estate established under the Site and Facility Lease and hereunder in the Property, subject only to Permitted Encumbrances, in an amount equal to the original principal components of the Lease Payments. The City will apply the Net Proceeds of such insurance as provided in Section 6.02.

Section 5.08. Insurance Net Proceeds; Form of Policies. All insurance policies (or riders) required by this Article V and provided by third party insurance carriers shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State, and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least ten days before the cancellation or revision becomes effective. Each insurance policy or rider required by Sections 5.03, 5.04 and 5.05 and provided by third party insurance carriers shall name the City and the Bank as insured parties and the Bank as loss payee and shall include a lender's loss payable endorsement for the benefit of the Bank. In the case of coverage pursuant to Section 5.03, the Bank shall be added as an additional insured.

Prior to the Closing Date, the City will deposit with the Bank policies (and riders and endorsements, if applicable) evidencing any such insurance procured by it, or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy (or rider), the City will furnish to the Bank evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article

V unless such insurance is no longer obtainable, in which event the City shall notify the Bank of such fact.

Section 5.09. Installation of City's Personal Property. The City may at any time and from time to time, in its sole discretion and at its own expense, install or permit to be installed other items of equipment or other personal property in or upon the Property. All such items shall remain the sole property of the City, in which the Bank has no interest, and may be modified or removed by the City at any time. The City must repair and restore any and all damage to the Property resulting from the installation, modification or removal of any such items. Nothing in this Lease Agreement prevents the City from purchasing or leasing items to be installed under this Section under a lease or conditional sale agreement, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest may attach to any part of the Property.

Section 5.10. Liens. The City will not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Property, other than as herein contemplated and except for such encumbrances as the City certifies in writing to the Bank do not materially and adversely affect the subleasehold estate in the Property hereunder and for which the Bank provides its prior written approval, which approval shall be at Bank's sole discretion. Except as expressly provided in this Article V, the City will promptly, at its own expense, take such action as may be necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim, for which it is responsible, if the same shall arise at any time. The City will reimburse the Bank for any expense incurred by it in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 5.11. Advances. If the City fails to perform any of its obligations under this Article V, the Bank may take such action as may be necessary to cure such failure, including the advancement of money, and the City shall be obligated to repay all such advances as additional rental hereunder, with interest at the rate set forth in Section 4.03(d).

Section 5.12. Environmental Covenants.

(a) ***Compliance with Laws; No Hazardous Substances.*** The City will comply with all Applicable Environmental Laws with respect to the Property and will not use, store, generate, treat, transport, or dispose of any Hazardous Substance thereon or in a manner that would cause any Hazardous Substance to later flow, migrate, leak, leach, or otherwise come to rest on or in the Property, or from the Property to any other property.

(b) ***Notification of Bank.*** The City will transmit copies of all notices, orders, or statements received from any governmental entity concerning violations or asserted violations of Applicable Environmental Laws with respect to the Property and any operations conducted thereon or any conditions existing thereon to the Bank, and the City will notify the Bank in writing immediately of any release, discharge, spill, or deposit of any Hazardous Substance that has occurred or is occurring that in any way affects or threatens to affect the Property, or the people, structures, or other property thereon, provided that no such notification shall create any liability or obligation on the part of the Bank.

(c) **Access for Inspection.** The City will permit the Bank, its agents, or any experts designated by the Bank to have full access to the Property during reasonable business hours for purposes of such independent investigation of compliance with all Applicable Environmental Laws, provided that the Bank has no obligation to do so, or any liability for any failure to do so, or any liability should it do so.

ARTICLE VI

EMINENT DOMAIN; USE OF NET PROCEEDS

Section 6.01. Eminent Domain. If all of the Property shall be taken permanently under the power of eminent domain or sold to a governmental entity threatening to exercise the power of eminent domain, the Term of this Lease Agreement shall cease as of the day possession shall be so taken. If less than all of the Property shall be taken permanently, or if all of the Property or any part thereof shall be taken temporarily under the power of eminent domain, (a) this Lease Agreement shall continue in full force and effect and shall not be terminated by virtue of such taking and the parties waive the benefit of any law to the contrary, and (b) there shall be a partial abatement of Lease Payments in an amount equal to the application of the Net Proceeds of any eminent domain award to the prepayment of the Lease Payments hereunder, in an amount to be agreed upon by the City and the Bank such that the resulting Lease Payments represent fair consideration for the use and occupancy of the remaining usable portion of the Property.

Section 6.02. Application of Net Proceeds.

(a) **From Insurance Award.**

(i) Any Net Proceeds of insurance against damage to or destruction of any part of the Property collected by the City in the event of any such damage or destruction shall be deposited by the City promptly upon receipt thereof in a special fund with the Bank designated as the "Insurance and Condemnation Fund."

(ii) Within 30 days following the date of such deposit, the City shall determine and notify the Bank in writing of its determination either (A) that the replacement, repair, restoration, modification or improvement of the Property is not economically feasible or in the best interest of the City and the Net Proceeds, together with other moneys available therefor, are sufficient to cause the prepayment of the principal components of all unpaid Lease Payments pursuant to Section 9.03 hereof, or (B) that all or a portion of such Net Proceeds are to be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Property and the fair rental value of the Property following such repair, restoration, replacement, modification or improvement will at least equal the unpaid principal component of the Lease Payments.

(iii) In the event the City's determination is as set forth in clause (A) of subparagraph (ii) above, such Net Proceeds shall be promptly applied to the prepayment of Lease Payments and other amounts pursuant to Section 9.03 of this

Lease Agreement; provided, however, that in the event of damage or destruction of the Property in full, such Net Proceeds may be so applied only if sufficient, together with other moneys available therefor, to cause the prepayment of the principal components of all unpaid Lease Payments, all accrued and unpaid interest, Prepayment Premiums described in Section 9.02, and all other costs related to such prepayments pursuant to Section 9.03 of this Lease Agreement and otherwise such Net Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the Property; provided further, however, that in the event of damage or destruction of the Property in part, such Net Proceeds may be applied to the prepayment of Lease Payments only if the resulting Lease Payments following such prepayment from Net Proceeds represent fair consideration for the remaining portions of the Property and otherwise such Net Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the Property, evidenced by a certificate signed by an Authorized Representative.

(iv) In the event the City's determination is as set forth in clause (B) of subparagraph (ii) above, such Net Proceeds shall be applied to the prompt replacement, repair, restoration, modification or improvement of the damaged or destroyed portions of the Property by the City, and until the Property has been restored to its prior condition, the City shall not place any lien or encumbrance on the Property that is senior to this Lease Agreement without the prior written consent of the Bank, at its sole discretion.

(b) From Eminent Domain Award. If all or any part of the Property shall be taken by eminent domain proceedings (or sold to a government threatening to exercise the power of eminent domain) the Net Proceeds therefrom shall be deposited by the City in the Insurance and Condemnation Fund and shall be applied and disbursed as follows:

(i) If the City has given written notice to the Bank of its determination that (A) such eminent domain proceedings have not materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under this Lease Agreement, and (B) such proceeds are not needed for repair or rehabilitation of the Property, the City shall so certify to the Bank and the Bank, and the City shall credit such proceeds towards the prepayment of the Lease Payments pursuant to Section 9.03 of this Lease Agreement.

(ii) If the City has given written notice to the Bank and the Bank of its determination that (A) such eminent domain proceedings have not materially affected the operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under this Lease Agreement, and (B) such proceeds are needed for repair, rehabilitation or replacement of the Property, the City shall so certify to the Bank, and the City shall apply such amounts for such repair or rehabilitation.

(iii) If (A) less than all of the Property shall have been taken in such eminent domain proceedings or sold to a government threatening the use of eminent domain powers, and if the City has given written notice to the Bank of its determination that such eminent domain proceedings have materially affected the

operation of the Property or the ability of the City to meet any of its obligations with respect to the Property under the Lease Agreement or (B) all of the Property shall have been taken in such eminent domain proceedings, then the City shall credit such proceeds towards the prepayment of the Lease Payments pursuant to Section 9.03 of this Lease Agreement.

(iv) In making any determination under this Section 6.02(b), the City may, but shall not be required to, obtain at its expense, the report of an independent engineer or other independent professional consultant, a copy of which shall be filed with the Bank. Any such determination by the City shall be final.

(c) **From Title Insurance.** The Net Proceeds from a title insurance award shall be deposited by the City in the Insurance and Condemnation Fund and credited towards the prepayment of Lease Payments required to be paid pursuant to Section 9.03 of this Lease Agreement.

Section 6.03. Abatement of Lease Payments. Lease Payments shall be abated during any period in which by reason of damage, destruction or condemnation there is substantial interference with the use and occupancy of the Property or any portion thereof by the City. The parties agree that the amounts of the Lease Payments under such circumstances shall not be less than the amounts of the unpaid Lease Payments as are then set forth in Exhibit C, unless such unpaid amounts are determined to be greater than the fair rental value of the portions of the Property not damaged or destroyed, based upon an appropriate method of valuation, in which event the Lease Payments shall be abated such that they represent said fair rental value. Such abatement shall continue for the period commencing with such damage or destruction and ending with the substantial completion of the work of repair or reconstruction as evidenced by a Certificate of an Authorized Representative to the Bank. In the event of any such damage or destruction, this Lease Agreement shall continue in full force and effect and the City waives any right to terminate this Lease Agreement by virtue of any such damage and destruction. Notwithstanding the foregoing, there shall be no abatement of Lease Payments under this Section 6.03 to the extent that (a) the proceeds of rental interruption insurance or (b) amounts in the Insurance and Condemnation Fund are available to pay Lease Payments which would otherwise be abated under this Section 6.03, it being hereby declared that such proceeds and amounts constitute special funds for the payment of the Lease Payments.

ARTICLE VII

OTHER COVENANTS OF THE CITY

Section 7.01. Disclaimer of Warranties. THE BANK MAKES NO AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY THE CITY OF THE PROPERTY OR ANY PORTION THEREOF, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE PROPERTY OR ANY PORTION THEREOF. THE CITY ACKNOWLEDGES THAT THE CITY LEASES THE PROPERTY AS-IS, IT BEING AGREED THAT ALL OF THE AFOREMENTIONED RISKS ARE TO BE BORNE BY THE CITY. In no event is the Bank liable for incidental, indirect, special or consequential damages, in connection with or arising out of this Lease Agreement for the existence, furnishing, functioning or

use of the Property by the City. The City hereby further acknowledges that the Bank has never physically occupied or entered upon the Property.

Section 7.02. Access to the Property; Grant and Conveyance of Right of Entry. The City agrees that the Bank, and the Bank's successors or assigns, has the right at all reasonable times, following at least 48 hours written notice provided to the City, to enter upon and to examine and inspect (to the extent permitted by law and public policy) the Property or any part thereof. The City further agrees that the Bank, and the Bank's successors or assigns shall have such rights of access to the Property or any component thereof, following at least 48 hours written notice provided to the City, as may be reasonably necessary to cause the proper maintenance of the Property if the City fails to perform its obligations hereunder. Neither the Bank nor any of its assigns has any obligation to cause such proper maintenance.

The City further grants, conveys and confirms to the Bank, for the use, benefit and enjoyment of the Bank, its successors in interest to the Property, including the Bank, and its sublessees, and their respective employees, invitees, agents, independent contractors, patrons, customers, guests and members of the public visiting the Property, a right of entry which shall be irrevocable for the Term of this Lease Agreement over, across and under the property of the City adjacent to the Property to and from the Property for the purpose of: (a) ingress, egress, passage or access to and from the Property by pedestrian or vehicular traffic; (b) installation, maintenance and replacement of utility wires, cables, conduits and pipes; and (c) other purposes and uses necessary or desirable for access to and from and for operation and maintenance of the Property.

Section 7.03. Release and Indemnification Covenants. To the maximum extent permitted by law, the City hereby indemnifies the Bank, and its directors, officers, agents, employees, successors and assigns against all claims, losses and damages, including legal fees and expenses, arising out of (a) the use, maintenance, condition or management of, or from any work or thing done on the Property by the City or the City's employees, agents, contractors, invitees or licensees, (b) any breach or default on the part of the City in the performance of any of its obligations under this Lease Agreement, (c) any negligence or willful misconduct of the City or of any of its agents, contractors, servants, employees or licensees with respect to the Property, (d) any intentional misconduct or negligence of any sublessee of the City with respect to the Property, (e) the acquisition, construction, improvement and equipping of the Property, (f) Environmental Claims and liabilities, damages (including foreseeable and unforeseeable consequential damages), losses, fines, penalties, judgments, awards, settlements, and costs and expenses (including, without limitation, reasonable attorneys' fees, experts', engineers' and consultants' fees, and costs and expenses of investigation, testing, remediation and dispute resolution) related thereto, whether for past or present violation of Applicable Environmental Laws, (g) any investigation, cleanup, remediation, removal or restoration work of site conditions of the Property relating any actual or alleged past or present to Hazardous Substances (whether on the Property or any adjacent or otherwise affected property and whether or not an abatement under this Lease Agreement has occurred) and resulting damages involving such Hazardous Substances, or the authorization of payment of the costs thereof. No indemnification is made under this Section 7.03 or elsewhere in this Lease Agreement for willful misconduct or gross negligence under this Lease Agreement by the Bank, or its respective officers, agents, employees, successors or assigns. The indemnification hereunder shall continue in full force and effect notwithstanding the full payment of all obligations under this Lease Agreement or the termination of the Term of this Lease Agreement for any reason.

The City and the Bank each agree to promptly give notice to each other and the Bank of any claim or liability hereby indemnified against following learning thereof.

Section 7.04. Assignment by the Bank. The Bank may assign its rights, title and interests herein, but no such assignment will be effective as against the City unless and until the Bank has filed with the City at least five Business Days' prior written notice thereof and an executed copy of an investor's letter addressed to the City and the Bank substantially in the form of the letter delivered by the Bank on the Closing Date attached hereto as Exhibit D. The City shall pay all Lease Payments hereunder to the Bank, as provided in Section 4.03(i) hereof, or under the written direction of the assignee named in the most recent assignment or notice of assignment filed with the City. During the Term of this Lease Agreement, the City will keep a complete and accurate record of all such notices of assignment.

Section 7.05. Assignment Agreement and Subleasing by the City. This Lease Agreement may not be assigned, mortgaged, pledged or transferred by the City. The City may further sublease the Property, or any portion thereof, with the prior written consent of the Bank, which consent shall not be unreasonably withheld, subject to all of the following conditions:

(a) This Lease Agreement and the obligation of the City to make Lease Payments hereunder shall remain obligations of the City, and any sublease shall be subject and subordinate to this Lease Agreement.

(b) The City shall, within 15 days after the delivery thereof, furnish or cause to be furnished to the Bank a true and complete copy of such sublease.

(c) No such sublease by the City shall cause the Property to be used for a purpose other than as may be authorized under the provisions of the laws of the State.

(d) Any such sublease shall be subject and subordinate in all respects to the Site and Facility Lease and this Lease Agreement.

Notwithstanding the foregoing, in connection with any sublease entered into for financing purposes, the Principal Component of the then remaining Lease Payments plus the principal component of the sublease payments shall not exceed the fair market value of the Property.

Section 7.06. Amendment of Lease Agreement. This Lease Agreement may be amended in writing by the parties hereto.

Section 7.07. Financial Statements; Budgets. Within 240 days following the end of each Fiscal Year of the City during the Term of this Lease Agreement, the City will provide the Bank with a copy of its Audited Financials for such Fiscal Year. Such Audited Financials shall include such information as is required by applicable Government Accounting Standards Board pronouncements and applicable State law. Within 30 days of adoption of its annual budget, the City will provide the Bank with a copy of its annual budget and any interim updates or modifications to such budget. Concurrent with each annual budget, the City shall provide the Bank with a certification that the Lease Payments for the pertinent Fiscal Year covered by such budget have been appropriated in the budget. Concurrent with the Audited Financials the City shall provide the Bank with a copy of its most recent rent roll for the Property. The City shall also supply the Bank

with copies of all lease agreements and lease agreement amendments for any and all space not occupied by the City at the Property as they are entered into. The City hereby agrees to provide the Bank with such other information as may be reasonably requested by the Bank.

Section 7.08. Records and Accounts. The City covenants and agrees that it shall keep proper books of record and accounts of its operations, in which complete and correct entries shall be made of all transactions relating to the City. Said books and records shall at all reasonable times be subject to the inspection of the Bank upon 48 hours' prior notice.

Section 7.09. Observance of Laws and Regulations. The City will well and truly keep, observe and perform or cause to be kept, observed and performed all valid and lawful obligations or regulations now or hereafter imposed on it by contract, or prescribed by any law of the United States, or of the State, or by any officer, board or commission having jurisdiction or control, as a condition of the continued enjoyment of any and every right, privilege or franchise now owned or hereafter acquired and enjoyed by the City, including the City's right to exist and carry on business as a municipal corporation, to the end that such rights, privileges and franchises shall be maintained and preserved, and shall not become abandoned, forfeited or in any manner impaired.

Section 7.10. Closing Conditions. The Bank has entered into this Lease Agreement in reliance upon the representations and warranties of the City contained in this Lease Agreement and to be contained in the documents and instruments to be delivered on the Closing Date and upon the performance by the City of the obligations of the City pursuant to this Lease Agreement at or prior to the Closing Date. Accordingly, the obligation of Bank to execute this Lease Agreement is subject to the fulfillment to the reasonable satisfaction of the Bank of the following conditions:

(a) The representations and warranties of the City contained in the Site and Facility Lease and in this Lease Agreement shall be true, complete and correct on the Closing Date.

(b) All representations, warranties and covenants made herein, and in certificates or other instruments delivered pursuant hereto or in connection herewith, shall be deemed to have been relied upon by the Bank notwithstanding any investigation heretofore or hereafter made by the Bank or on their behalf.

(c) On the Closing Date, the Resolution, the Site and Facility Lease and this Lease Agreement shall be in full force and effect and shall not have been amended, modified or supplemented, except as may have been agreed to in writing by the Bank.

(d) On the Closing Date, the City will have adopted and there will be in full force and effect such resolutions as in the opinion of Bond Counsel shall be necessary in connection with the transactions contemplated by this Lease Agreement, and all necessary action of the City relating to the execution and delivery the Lease Agreement will have been taken, will be in full force and effect and will not have been amended, modified or supplemented, except as may have been agreed to in writing by the Bank.

(e) At or prior to the Closing Date, the Bank will have received the following documents:

(i) the approving opinions, dated the Closing Date and addressed to the Bank, of

Bond Counsel representing, among other matters, that the Site and Facility Lease and Lease Agreement have been duly authorized, executed and delivered by the City and each is a legal, valid and binding obligation of the City, enforceable in accordance with its respective terms, subject to customary exceptions for bankruptcy and judicial discretion;

(ii) a certificate or certificates, dated the date of the Closing and signed on behalf of the City by an Authorized Representative, to the effect that, among other things, (A) the representations and warranties contained in the Site and Facility Lease and this Lease Agreement are true and correct in all material respects on and as of the date of the Closing with the same effect as if made on the Closing Date; (B) no litigation of any nature is then pending or, to his or her knowledge, threatened, seeking to restrain or enjoin the issuance and delivery of the Site and Facility Lease and Lease Agreement or affecting the validity of the Site and Facility Lease and this Lease Agreement or contesting the existence or boundaries of the City or the titles of the present officers to their respective offices; (C) no authority or proceedings for the issuance of the Lease Obligation has been repealed, revoked or rescinded and no petition or petitions to revoke or alter the authorization to execute and deliver this Lease Agreement has been filed with or received by the City; and (D) the City has complied with all the agreements and covenants and satisfied all the conditions on its part to be performed or satisfied at or prior to, and to the extent possible before, the Closing Date;

(iii) a certified copy of the Resolution;

(iv) the items required by the Resolution as conditions for execution and delivery of this Lease Agreement;

(v) the opinion of the City Attorney, dated the Closing Date, addressed to the Bank and Bond Counsel, to the effect that, among other things:

(A) the City is a municipal corporation and general law city, duly organized and validly existing under and by virtue of the Constitution and laws of the State of California, with full legal right, power, and authority (1) to adopt the Resolution, (2) to conduct its affairs and to lease and own its properties, including the Property, as contemplated by the Site and Facility Lease and this Lease Agreement, (3) to execute and deliver the Refunding Instructions, the Site and Facility Lease and this Lease Agreement, and (4) to provide for the budget and appropriation, as contemplated by this Lease Agreement;

(B) the City has taken all actions required to be taken by it prior to the Closing Date material to the transactions contemplated by the Site and Facility Lease, the Refunding Instructions and this Lease Agreement, and the City has duly authorized the execution and delivery of, and the due performance of its obligations under, the Site and Facility Lease, the Refunding Instructions and this Lease Agreement;

(C) the adoption of the Resolution, the execution and delivery by the City of the Site and Facility Lease, the Refunding Instructions and this Lease Agreement, and the compliance with the provisions of the Site and Facility Lease, the Refunding

Instructions and this Lease Agreement, to the best of such counsel's knowledge after due inquiry, do not and will not conflict with or violate in any material respect any California constitutional, statutory or regulatory provision, or, to the best of such counsel's knowledge after due inquiry, conflict with or constitute on the part of the City a material breach of or default under any agreement or instrument to which the City is a party or by which it is bound;

(D) no litigation is pending with service of process completed or, to the best of such counsel's knowledge after due inquiry, threatened against the City in any court in any way affecting the titles of the officials of the City to their respective positions, or seeking to restrain or to enjoin the execution and delivery of the Site and Facility Lease, the Refunding Instructions and this Lease Agreement, or the collection of revenues pledged or to be pledged to pay the principal of and interest on the Lease Obligation, or in any way contesting or affecting the validity or enforceability of the Site and Facility Lease, the Refunding Instructions and this Lease Agreement or the Resolution, or contesting the powers of the City or its authority with respect to the Site and Facility Lease, the Refunding Instructions and this Lease Agreement or the Resolution;

(E) to the best of such counsel's knowledge after due inquiry, no authorization, approval, consent or other order of the State or any local agency of the State, other than such authorizations, approvals and consents which have been obtained, is required for the valid authorization, execution and delivery by the City of the Site and Facility Lease, the Refunding Instructions and this Lease Agreement; and

(F) to the best of such counsel's knowledge after due inquiry, the City is not in breach of or default under any applicable law or administrative regulation of the State or any applicable judgment or decree or any lease agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject, which breach or default would materially adversely affect the City's ability to enter into or perform its obligations under the Site and Facility Lease, the Refunding Instructions and this Lease Agreement, and no event has occurred and is continuing which, with the passage of time or the giving of notice, or both, would constitute a default or an event of default under any such instrument;

(vi) the fully executed Refunding Instructions, Site and Facility Lease and this Lease Agreement in form and substance acceptable to the Bank;

(vii) evidence of liability and casualty insurance satisfactory to the Bank; and

(viii) such additional legal opinions, certificates, instruments and other documents as the Bank or its counsel may reasonably request to evidence the truth and accuracy, as of the date of this Lease Agreement and as of the Closing Date, of the representations, warranties, agreements and covenants of the City contained herein and the due performance or satisfaction by the City at or prior to the Closing Date of all agreements then to be performed and all conditions then to be satisfied by the City.

Section 7.11. Notices. During the Term of this Lease Agreement, the City shall provide to the Bank:

- (a) Immediate notice by telephone, promptly confirmed in writing, of any event, action or failure to take any action which is, or with the passage of time or the giving of notice or both, would constitute an Event of Default under this Lease Agreement, together with a detailed statement by an Authorized Representative of the steps being taken by the City to cure the effect of such default or Event of Default.
- (b) Prompt written notice of any Material Litigation, or any investigation, inquiry or similar proceeding by any Governmental Authority.
- (c) With reasonable promptness, such other information respecting the City, and the operations, affairs and financial condition of the City as the Bank may from time to time reasonably request.
- (d) Immediate notice if any budget for the City does not include an amount sufficient to make all Lease Payments in a Rental Period.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.01. Events of Default Defined. Any one or more of the following events constitutes an “Event of Default” hereunder:

- (a) Failure by the City to pay any Lease Payment or other payment required to be paid hereunder at the time specified herein.
- (b) Failure by the City to observe and perform any material covenant, condition or agreement on its part to be observed or performed hereunder, other than as referred to in the preceding clause (a) of this Section, for a period of 30 days after written notice specifying such failure and requesting that it be remedied has been given to the City by the Bank. However, if in the reasonable opinion of the City the failure stated in the notice can be corrected, but not within such 30-day period, the Bank shall not unreasonably withhold their consent to an extension of such time (for a period not to exceed 60 days) if corrective action is instituted by the City within such 30-day period and diligently pursued until the default is corrected.
- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City promptly to lift any execution, garnishment or attachment, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of the Federal Bankruptcy Code, as amended, or under any similar federal or State act now existing or which may hereafter be enacted.

(d) Any default by the City to observe any material covenant, condition or agreement on its part to be observed or performed under the Site and Facility Lease.

(e) Any court of competent jurisdiction shall find or rule that the Site and Facility Lease or this Lease Agreement is not valid or binding against the City.

(f) Any Material Adverse Effect shall exist.

Upon the occurrence and continuance of an Event Default, the interest rate on the Lease Payments shall bear interest at the Default Rate.

Section 8.02. Remedies on Default. Whenever any Event of Default has happened and is continuing, the Bank may exercise any and all remedies available under law or granted under this Lease Agreement, including without limitation re-leasing of the Property; provided, however, that notwithstanding anything herein to the contrary, there shall be absolutely no right to accelerate the Lease Payments or otherwise declare any Lease Payments not then in default to be immediately due and payable. Each and every covenant hereof to be kept and performed by the City is expressly made a condition and upon the breach thereof the Bank may exercise any and all rights granted hereunder; provided, that no termination of this Lease Agreement shall be effected either by operation of law or acts of the parties hereto, except only in the manner herein expressly provided. Upon the occurrence and during the continuance of any Event of Default, the Bank may exercise any one or more of the following remedies:

(a) ***Enforcement of Payments without Termination.*** If the Bank does not elect to terminate this Lease Agreement in the manner hereinafter provided for in subparagraph (b) hereof, the City agrees to and shall remain liable for the payment of all Lease Payments and the performance of all conditions herein contained and shall reimburse the Bank for any deficiency arising out of the re-leasing of the Property, or, if the Bank is unable to re-lease the Property, then for the full amount of all Lease Payments to the end of the Term of this Lease Agreement, but said Lease Payments and/or deficiency shall be payable only at the same time and in the same manner as hereinabove provided for the payment of Lease Payments hereunder, notwithstanding such entry or re-entry by the Bank or any suit in unlawful detainer, or otherwise, brought by the Bank for the purpose of effecting such re-entry or obtaining possession of the Property or the exercise of any other remedy by the Bank. The City hereby irrevocably appoints the Bank as the agent and attorney-in-fact of the City to enter upon and re-lease the Property upon the occurrence and continuation of an Event of Default and to remove all personal property whatsoever situated upon the Property, to place such property in storage or other suitable place in the City of Atwater for the account of and at the expense of the City, and the City hereby exempts and agrees to save harmless the Bank from any costs, loss or damage whatsoever arising or occasioned by any such entry upon and re-leasing of the Property and the removal and storage of such property by the Bank or its duly authorized agents in accordance with the provisions herein contained. The City agrees that the terms of this Lease Agreement constitute full and sufficient notice of the right of the Bank to re-lease the Property in the event of such re-entry without effecting a surrender of this Lease Agreement, and further agrees that no acts of the Bank in effecting such re-leasing shall constitute a surrender or termination of this Lease Agreement irrespective of the term for which such re-leasing is made or the terms and conditions of such re-leasing, or otherwise, but that, on the contrary, in the event of such

default by the City the right to terminate this Lease Agreement shall vest in the Bank to be effected in the sole and exclusive manner hereinafter provided for in subparagraph (b) hereof. The City agrees to surrender and quit possession of the Property upon demand of the Bank for the purpose of enabling the Property to be re-let under this paragraph. Any rental obtained by the Bank in excess of the sum of Lease Payments plus costs and expenses incurred by the Bank for its services in re-leasing the Property shall be paid to the City.

(b) *Termination of Lease.* If an Event of Default occurs and is continuing hereunder, the Bank at its option may either terminate this Lease Agreement and re-lease all or any portion of the Property, subject to the Site and Facility Lease. If the Bank terminates this Lease Agreement at its option and in the manner hereinafter provided due to a default by the City (and notwithstanding any re-entry upon the Property by the Bank in any manner whatsoever or the re-leasing of the Property), the City nevertheless agrees to pay to the Bank all costs, loss or damages howsoever arising or occurring payable at the same time and in the same manner as is herein provided in the case of payment of Lease Payments and Additional Payments. Any surplus received by the Bank from such re-leasing shall be applied by the Bank to Lease Payments due under this Lease Agreement. Neither notice to pay rent or to deliver up possession of the premises given under law nor any proceeding in unlawful detainer taken by the Bank shall of itself operate to terminate this Lease Agreement, and no termination of this Lease Agreement on account of default by the City shall be or become effective by operation of law, or otherwise, unless and until the Bank shall have given written notice to the City of the election on the part of the Bank to terminate this Lease Agreement. The City covenants and agrees that no surrender of the Property, or of the remainder of the Term hereof or any termination of this Lease Agreement shall be valid in any manner or for any purpose whatsoever unless stated or accepted by the Bank by such written notice.

(c) *Proceedings at Law or In Equity.* If an Event of Default occurs and continues hereunder, the Bank may take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due hereunder or to enforce any other of its rights hereunder.

(d) *Remedies under the Site and Facility Lease.* If an Event of Default occurs and continues hereunder, the Bank may exercise its rights under the Site and Facility Lease.

Section 8.03. No Remedy Exclusive. No remedy herein conferred upon or reserved to the Bank is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Bank to exercise any remedy reserved to it in this Article VIII it shall not be necessary to give any notice, other than such notice as may be required in this Article VIII or by law.

Section 8.04. Agreement to Pay Attorneys' Fees and Expenses. If either party to this Lease Agreement defaults under any of the provisions hereof and the nondefaulting party should employ attorneys (including in-house legal counsel) or incur other expenses for the collection of

moneys or the enforcement or performance or observance of any obligation or agreement on the part of the defaulting party herein contained, the defaulting party agrees that it will on demand therefor pay to the nondefaulting party the reasonable fees of such attorneys (including allocable costs and expenses of in-house legal counsel, if any) and such other expenses so incurred by the nondefaulting party.

Section 8.05. No Additional Waiver Implied by One Waiver. If any agreement contained in this Lease Agreement is breached by either party and thereafter waived by the other party, such waiver is limited to the particular breach so waived and will not be deemed to waive any other breach hereunder.

Section 8.06. Judicial Reference.

(a) *Judicial Reference.* The Bank and the City hereby agree: (i) each proceeding or hearing based upon or arising out of, directly or indirectly, this Lease Agreement, the Site and Facility Lease, the Property or any document related thereto, any dealings between the City and the Bank related to the subject matter of this Lease Agreement, the Site and Facility Lease or any related transactions, and/or the relationship that is being established hereunder between the City and the Bank (hereinafter, a “Claim”) shall be determined by a consensual general judicial reference (the “Reference”) pursuant to the provisions of Section 638 et seq. of the California Code of Civil Procedure, as such statutes may be amended or modified from time to time; (ii) upon a written request, or upon an appropriate motion by either the Bank or the City, as applicable, any pending action relating to any Claim and every Claim shall be heard by a single Referee (as defined below) who shall then try all issues (including any and all questions of law and questions of fact relating thereto), and issue findings of fact and conclusions of law and report a statement of decision. The Referee’s statement of decision will constitute the conclusive determination of the Claim. The Bank and the City agree that the Referee shall have the power to issue all legal and equitable relief appropriate under the circumstances before the Referee; (iii) the Bank and the City shall promptly and diligently cooperate with one another, as applicable, and the Referee, and shall perform such acts as may be necessary to obtain prompt and expeditious resolution of all Claims in accordance with the terms of this Section 8.06; (iv) either the Bank or the City, as applicable, may file the Referee’s findings, conclusions and statement with the clerk or judge of any appropriate court, file a motion to confirm the Referee’s report and have judgment entered thereon. If the report is deemed incomplete by such court, the Referee may be required to complete the report and resubmit it; (v) the Authority and the City, as applicable, will each have such rights to assert such objections as are set forth in Section 638 et seq. of the California Code of Civil Procedure; and (vi) all proceedings shall be closed to the public and confidential, and all records relating to the Reference shall be permanently sealed when the order thereon becomes final.

(b) *Selection of Referee; Powers.* The parties to the Reference proceeding shall select a single neutral referee (the “Referee”), who shall be a retired judge or justice of the courts of the State of California, or a federal court judge, in each case, with at least ten (10) years of judicial experience in civil matters. The Referee shall be appointed in accordance with Section 638 of the California Code of Civil Procedure (or pursuant to comparable provisions of federal law if the dispute falls within the exclusive jurisdiction of the federal courts). If within ten (10) days after the request or motion for the Reference, the

parties to the Reference proceeding cannot agree upon a Referee, then any party to such proceeding may request or move that the Referee be appointed by the Presiding Judge of the Merced County Superior Court, or of the U.S. District Court for the Eastern District of California. The Referee shall determine all issues relating to the applicability, interpretation, legality and enforceability of this Section 8.06.

(c) *Provisional Remedies and Self Help.* No provision of this Section 8.06 shall limit the right of either the Bank or the City, as the case may be, to (i) exercise such self-help remedies as might otherwise be available under applicable law, or (ii) obtain or oppose provisional or ancillary remedies, including without limitation injunctive relief, writs of possession, the appointment of a receiver, and/or additional or supplementary remedies from a court of competent jurisdiction before, after, or during the pendency of any Reference. The exercise of, or opposition to, any such remedy does not waive the right of the Bank or the City to the Reference pursuant to this Section 8.06(c).

(d) *Costs and Fees.* Promptly following the selection of the Referee, the parties to such Reference proceeding shall each advance equal portions of the estimated fees and costs of the Referee. In the statement of decision issued by the Referee, the Referee shall award costs, including reasonable attorneys' fees, to the prevailing party, if any, and may order the Referee's fees to be paid or shared by the parties to such Reference proceeding in such manner as the Referee deems just.

ARTICLE IX

PREPAYMENT OF LEASE PAYMENTS

Section 9.01. Security Deposit. Notwithstanding any other provision of this Lease Agreement, the City may on any date secure the payment of the Lease Payments in whole or in part by depositing with the Bank or a fiduciary reasonably satisfactory to the Bank, in trust, an amount of cash, which shall be held in a segregated trust or escrow fund under a trust or escrow agreement that is in form and content acceptable to the Bank, which cash so held is either (a) sufficient to pay such Lease Payments, including the principal and interest components thereof, in accordance with the Lease Payment schedule set forth in Exhibit C, or (b) invested in whole in non-callable Federal Securities maturing not later than the dates such funds will be required to make Lease Payments or any prepayment in an amount which is sufficient, in the opinion of an independent certified public accountant (which opinion must be in form and substance, and with such an accountant, acceptable to the Bank and addressed and delivered to the Bank), together with interest to accrue thereon and without reinvestment and together with any cash which is so deposited, to pay such Lease Payments when due under Section 4.03(a) or when due on any optional prepayment date under Section 9.02, as the City instructs at the time of said deposit; provided, however, that at or prior to the date on which any such security deposit is established, the City shall deliver to the Bank an opinion of Bond Counsel (in form and substance acceptable to the Bank) to the effect that any such security deposit will not adversely affect the excludability of the Interest Component of Lease Payments from gross income of the Bank for federal income tax purposes.

In the event of a security deposit under this Section with respect to all unpaid Lease Payments, (i) the Term of this Lease Agreement shall continue, (ii) all obligations of the City under

this Lease Agreement, and all security provided by this Lease Agreement for said obligations, shall thereupon cease and terminate, excepting only (A) the obligation of the City to make, or cause to be made, all of the Lease Payments from such security deposit and, to the extent of any deficiency, as rent payable from other legally available funds of the City, and (B) the City's obligation to pay all unpaid Additional Payments, including amounts due under Section 7.03, including, but not limited to, the release and indemnification obligations of the City under subparagraphs (f) and (g) of Section 7.03, and (iii) under Section 4.05, the Bank's leasehold interest in the Property will vest in the City on the date of said deposit automatically and without further action by the City or the Bank. The City hereby grants a first priority security interest in and the lien on said security deposit and all proceeds thereof in favor of the Bank. Said security deposit shall be deemed to be and shall constitute a special fund for the payment of Lease Payments in accordance with the provisions of this Lease Agreement and, notwithstanding anything to the contrary herein, Lease Payments therefrom shall not be subject to abatement under Section 6.03 hereof to the extent payable from the funds held by the Bank or the fiduciary as described in the first sentence of this Section 9.01.

Optional Prepayment.

Upon thirty (30) days' prior written notice to the Bank, the City may prepay the Lease Agreement in full on any day from any lawfully available source of funds, by depositing with the Bank immediately available funds equal to a prepayment price equal to 100% of the unpaid Principal Components of the Lease Payments, together with accrued interest to the prepayment date, plus any amount of Lease Payments that were abated and that have not been otherwise paid from rental interruption insurance or other sources or paid during an extension of the lease term, together with a prepayment premium expressed as a percentage of the Principal Component to be prepaid in the amounts set forth in the following table:

<u>Prepayment Date</u>	<u>Prepayment Premium</u>
Closing Date to June 30, 20__	_.00%
July 1, 20__ to June 30, 20__	_.00%
July 1, 20__ to June 30, 20__	_.00%
July 1, 20__, and thereafter	0.00%

If the City gives notice to the Bank of its intention to exercise such option but fails to deposit the required amount with the Bank on or prior to the prepayment date, the City will continue to pay the Lease Payments as if no such notice had been given. The City agrees that, if following such prepayment the Property is damaged or destroyed or taken by eminent domain, it is not entitled to, and by such prepayment waives the right of abatement of such prepaid Lease Payments.

Section 9.02. Mandatory Prepayment from Net Proceeds of Insurance or Eminent Domain. The City shall be obligated to prepay the unpaid principal components of the Lease Payments in whole or in part in such order of prepayment as shall be selected by the City on any date, together with any accrued and unpaid interest, from and to the extent of any proceeds of insurance award or condemnation award with respect to the Property to be used for such purpose under Section 6.02. The City and the Bank hereby agree that such proceeds, to the extent remaining after payment of any delinquent Lease Payments, shall be credited towards the City's obligations under this Section 9.03.

ARTICLE X

MISCELLANEOUS

Section 10.01. Notices. Any notice, request, complaint, demand or other communication under this Lease Agreement shall be given by first class mail or personal delivery to the party entitled thereto at its address set forth below, or by facsimile transmission or other form of telecommunication, at its number set forth below. Notice shall be effective either (a) upon transmission by facsimile transmission or other form of telecommunication, (b) 48 hours after deposit in the United States of America first class mail, postage prepaid, or (c) in the case of personal delivery to any person, upon actual receipt. The City and the Bank may, by written notice to the other party, from time to time modify the address or number to which communications are to be given hereunder.

If to the City: City of Atwater
750 Bellevue Road
Atwater, CA 95301
Attention: Finance Director
Phone: (209) 357-6310
Facsimile: (209) 357-6364

If to the Bank: _____ Bank
_____, Suite _____
_____, California _____
Attention: _____
Phone: (____) ____-____
Facsimile: (____) ____-____

Section 10.02. Binding Effect. This Lease Agreement inures to the benefit of and is binding upon the Bank, the City and their respective successors and assigns.

Section 10.03. Severability. If any provision of this Lease Agreement is held invalid or unenforceable by any court of competent jurisdiction, such holding will not invalidate or render unenforceable any other provision hereof.

Section 10.04. Net-net-net Lease. This Lease Agreement is a “net-net-net lease” and the City hereby agrees that the Lease Payments are an absolute net return to the Bank, free and clear of any expenses, charges or set-offs whatsoever.

Section 10.05. Further Assurances and Corrective Instruments. The Bank and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Property hereby leased or intended so to be or for carrying out the expressed intention of this Lease Agreement.

Section 10.06. Applicable Law. This Lease Agreement is governed by and construed in accordance with the laws of the State.

Section 10.07. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the City shall be contrary to law, then such agreement or agreements, such covenant or covenants or such portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof; but the Bank shall retain all the rights and benefits accorded to it under any applicable provisions of law. The City hereby declares that it would have adopted this Lease Agreement and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 10.08. Captions. The captions or headings in this Lease Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or section of this Lease Agreement.

Section 10.09. Execution in Counterparts. This Lease Agreement may be executed in several counterparts, each of which is an original and all of which constitutes one and the same instrument.

* * * * *

IN WITNESS WHEREOF, the Bank and the City have caused this Lease Agreement to be executed in their respective names by their duly authorized officers, all as of the date first above written.

_____ BANK,
a _____

By: _____

CITY OF ATWATER, CALIFORNIA

By: _____

Attest:

By: _____

EXHIBIT A

DESCRIPTION OF THE SITE

All that certain real property situated in the City of Atwater, County of Merced, State of California, described as follows:

[To be determined upon completion of applicable title work and verification of unencumbered status and credit quality acceptable to Bank]

EXHIBIT B

DESCRIPTION OF THE FACILITY

Means those certain existing facilities and improvements presently existing on the Site, including the building, parking areas and related facilities, together with any permitted additions, replacements, modifications or other alterations thereto, and together with and including, all riparian rights, water and water rights, easements, rights-of-way, licenses, franchises, rights of service and use, and the construction of all permissible auxiliary work necessary or convenient for the foregoing.

EXHIBIT C
SCHEDULE OF LEASE PAYMENTS

<u>Lease Payment Date</u>	<u>Principal</u>	<u>Rate</u>	<u>Interest</u>	<u>Lease Payment</u>
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Totals	<u>\$</u>		<u>\$</u>	<u>\$</u>
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EXHIBIT D

CERTIFICATE OF BANK

The undersigned hereby states and certifies, for and on behalf of, _____ Bank, a _____ (the "Bank"), with respect to the \$_____ aggregate principal amount of the City of Atwater, Series 2016 Lease Obligations (CalPERS Financing Project) (the "2016 Lease Obligation"), approved pursuant to Resolution No. ____ (the "Resolution"), adopted by the City Council of the City of Atwater (the "City") on March __, 2016, and secured and consummated pursuant to a Site and Facilities Lease, dated as of April 1, 2016 (the "Site Lease"), by and between the City and the Bank, and pursuant to a Lease Agreement, dated as of April 1, 2016 (the "Lease Agreement," and together with the Site Lease, the "Lease Documents"), and as such, in connection with said 2016 Lease Obligation, the undersigned hereby acknowledges and represents that:

(i) the Bank is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it was incorporated or formed and has the full legal right, power and authority to enter into the Lease Documents;

(ii) the Bank has sufficient knowledge and experience in financial and business matters, including municipal obligations similar to the 2016 Lease Obligation, to be able to evaluate the risks and merits of the 2016 Lease Obligation and is able to bear such economic risks;

(iii) the Bank understands that neither the 2016 Lease Obligation nor Lease Documents have been registered with any federal or state securities agency or commission; and further understands that the 2016 Lease Obligation and Lease Documents (a) are not being registered or otherwise qualified for sale under the "Blue Sky" laws and regulations of any state; (b) will not be listed in any stock or other securities exchange; and (c) will not carry a rating from any rating service;

(iv) the Bank acknowledges that it has either been supplied with or has been given access to information to which a reasonable lender would attach significance in making lending decisions, and the Bank has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the legal, physical and fiscal condition of the City, and the City's financial statements and fund balances, as well as the insurance, security and prepayment arrangements set forth in the Lease Documents, so that, as a reasonable lender, the Bank has been able to make an informed decision to enter into the Lease Documents for the consummation of the 2016 Lease Obligation;

(v) the Bank understands and acknowledges that no official statement, offering memorandum or any disclosure document has been prepared, nor is any contemplated to be prepared;

(vi) the Bank acknowledges that there is no reserve fund required for the 2016 Lease Obligation;

(vii) the Bank understands that the 2016 Lease Obligation is not subject to the requirements of Rule 15c2-12 promulgated under the Securities Exchange Act of 1934, as amended, and therefore the City has not undertaken, other than as provided in the Lease Documents, to provide to or for the benefit of owners of the 2016 Lease Obligation financial or operating data or any other information with respect to the City or the 2016 Lease Obligation on an ongoing basis;

(viii) the Bank has made its own inquiry and analysis with respect to the 2016 Lease Obligation and the security therefore, and other material factors affecting the security and payment of the 2016 Lease Obligation;

(ix) the Bank is either:

(a) an “accredited investor” as such term is defined in Rule 501(a) promulgated under the Securities Act of 1933, as amended (the “Securities Act”);

(b) a “qualified institutional buyer” as such term is defined in Rule 144A promulgated under the Securities Act; or

(c) a bank, savings institution or insurance company (whether acting in a trustee or custodial capacity for any qualified institutional buyer or on its own behalf);

(x) the Bank is purchasing the 2016 Lease Obligation for its own account as evidence of a financing transaction or for the account of institutions that meet the representations set forth herein, and not with a view to, and with no intention of, selling, pledging, transferring, conveying, hypothecating, mortgaging, disposing, reoffering, distributing, or reselling the 2016 Lease Obligation, or any part or interest thereof;

(xi) the Bank recognizes that the 2016 Lease Obligation involves significant risks, there is no established market for the 2016 Lease Obligation and that none is likely to develop and, accordingly, the Bank must bear the economic risk of the 2016 Lease Obligation for an indefinite period of time;

(xii) the Bank agrees that its right, title and interest in and to the Lease Documents and the 2016 Lease Obligation, with notice to the City, may be assigned and reassigned in whole (but not in part) to one or more assignees or subassignees by Bank, without the necessity of obtaining the consent of City, pursuant to the requirements of the Lease Agreement;

(xiii) the Bank further acknowledges that it is responsible for consulting with its advisors concerning any obligations, including, but not limited to, any obligations pursuant to federal and state securities and income tax laws it may have with respect to subsequent assignments or assignees of the 2016 Lease Obligation if and when any such future disposition of the 2016 Lease Obligation may occur;

(xiv) the Bank acknowledges that The Weist Law Firm (“Bond Counsel”) is acting as

bond counsel to the City, that Bond Counsel has no attorney-client relationship with the Bank, and that the Bank has sought legal advice from its own counsel to the extent it concluded legal advice was necessary.

Capitalized terms shall have the meaning set forth in the Lease Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of the ___th day of April, 2016.

_____ BANK,
a _____

By: _____

EXHIBIT E

\$ _____

**CITY OF ATWATER
SERIES 2016 REFUNDING LEASE OBLIGATION
(CALPERS REFINANCING PROJECT)**

**REQUISITION NO. 1
FOR DISBURSEMENT OF COSTS OF ISSUANCE SET-ASIDE FUNDS**

The undersigned, as Finance Director of the City of Atwater (the "City"), in connection with the execution and delivery of the above-captioned \$_____ aggregate principal amount of the City of Atwater, Series 2016 Lease Obligation (CalPERS Refinancing Project) (the "2016 Lease Obligation"), approved pursuant to Resolution No. ____ (the "Resolution"), adopted by the City Council of the City on March __, 2016, and secured and consummated pursuant to a Site and Facility Lease, dated as of April 1, 2016, by and between the City and _____ Bank, a _____ (the "Bank"), and pursuant to a Lease Agreement, dated as of April 1, 2016 by and between the City and the Bank (the "Lease Agreement"), do hereby certify that:

(i) the undersigned is a duly Authorized Representative (as defined in the Resolution and Lease Agreement) with authority to act on behalf of the City as necessary in connection with execution and delivery of the 2016 Lease Obligation, and as such, is authorized to disburse money for the payment of Costs of Issuance (the "Costs of Issuance"), which moneys have been set aside by the Bank for the purpose of paying the Costs of Issuance (the "Costs of Issuance Funds");

(ii) the Bank is hereby instructed to pay to the parties listed on Exhibit A hereto the sum listed opposite such parties names as a payment for the items listed and the expenses incidental thereto from the Costs of Issuance Funds. These costs have been properly incurred, are each a proper charge under the Lease Agreement and have not been the basis of any previous disbursements; and

(iii) all payments shall be made by check or wire transfer in accordance with the payment instructions set forth in Exhibit A attached hereto or in invoices submitted in accordance herewith, and the Bank may rely on such payment instructions as though given by the City with no duty to investigate or inquire as to the authenticity of the invoice or the payment instructions contained therein.

Dated: April __, 2016

CITY OF ATWATER

By: _____

EXHIBIT A
REQUEST NO. 1
COSTS OF ISSUANCE DISBURSEMENTS

<u>Payee Name and Address</u>	<u>Purpose of Obligation</u>	<u>Amount</u>
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§ _____
CITY OF ATWATER
SERIES 2016 REFUNDING LEASE OBLIGATION
(CALPERS REFINANCING PROJECT)

CERTIFICATE OF ACCEPTANCE OF LEASE AGREEMENT

This is to certify that the interest in real property conveyed by the Lease Agreement, dated as of April 1, 2016, from _____ Bank, a _____, as sublessor, to the City of Atwater, California, as sublessee (the "City"), as evidenced by the Memorandum of Lease Agreement recorded concurrently herewith, is hereby accepted by the undersigned officer on behalf of the City pursuant to authority conferred by resolution of the City Council of the City adopted on March __, 2016, and the sublessee consents to recordation thereof by its duly authorized officer.

Dated as of April __, 2016

CITY OF ATWATER, CALIFORNIA

By: _____

§ _____
CITY OF ATWATER
SERIES 2016 REFUNDING LEASE OBLIGATION
(CALPERS REFINANCING PROJECT)

REFUNDING INSTRUCTIONS

These REFUNDING INSTRUCTIONS (the “Instructions”) are dated as of April 1, 2016, and are given by the CITY OF ATWATER, a municipal corporation and general law city, duly organized and validly existing under the laws of the State of California (the “City”);

W I T N E S S E T H:

WHEREAS, the City is obligated to the California State Public Employees’ Retirement System (“CalPERS”) under a certain contract, by and between the City and CalPERS, as amended from time to time (the “CalPERS Contract”), to make contributions to CalPERS in exchange for CalPERS providing retirement benefits for its retirees; and

WHEREAS, CalPERS determines, based on actuarial methods, a percentage rate of regular salary required to fund earned pension benefits, and if the total amount of accumulated contributions is less than the total forecasted cost of earned pension benefits, the difference represents an Unfunded Accrued Actuarial Liability (the “UAAL”); and

WHEREAS, to finance the prepayment of a portion of the UAAL, the City Council of the City (the “Council”) on March __, 2016 adopted Resolution No. ____ (the “Resolution”), pursuant to which the City authorized and directed the execution and delivery its City of Atwater, Series 2016 Refunding Lease Obligation (CalPERS Refinancing Project) (the “Obligation”); and

WHEREAS, the Obligation in the amount of \$_____ (the “Obligation Proceeds”) is being made by _____ Bank, a _____ (the “Bank”), to the City in immediately available funds on April __, 2016 (the “Closing Date”) pursuant to a Lease Agreement, dated as of April 1, 2016, by and between the Bank and the City (the “Lease Agreement”); and

WHEREAS, capitalized terms not otherwise defined herein will have the meanings ascribed to them in the Lease Agreement; and

WHEREAS, concurrently with the funding of the Obligation on the Closing Date, a portion of the Obligation Proceeds (i) in the amount of \$_____ will be transferred by the Bank directly to CalPERS, in accordance with the these Refunding Instructions, in satisfaction of a portion of the City’s obligations under the CalPERS Contract with respect to the Public Safety Employees Plan UAAL Obligations (the “Safety Plan Designated Proceeds”), and (ii) in the amount of \$_____ will be transferred by the Bank directly to CalPERS, in accordance with these Refunding Instructions, in satisfaction of a portion of the City’s obligations under the CalPERS Contract with respect to the Miscellaneous Employees Plan UAAL Obligations (the “Miscellaneous Plan Designated Proceeds”); and

WHEREAS, the City has full legal right, power, and authority to enter into and perform its duties under these Instructions; and

WHEREAS, the Bank acknowledges that these Instructions constitute irrevocable instructions by the City to apply the Safety Plan Designated Proceeds and the Miscellaneous Plan Designated Proceeds as set forth herein.

NOW, THEREFORE, in consideration of the above the City agrees as follows:

Section 1. Transfer and Application of Safety Plan Designated Proceeds.

Concurrently with the funding of the Obligation on the date hereof, the Bank is hereby irrevocably instructed to wire the Safety Plan Designated Proceeds in the amount of the \$_____, directly to CalPERS in accordance with the following wire instructions:

WIRE INSTRUCTIONS:

ABA#0260-0959-3
Bank of America Sacramento Main
555 Capitol Mall, Suite 1555
Sacramento, CA 95814
For credit to State of California, CalPERS
Account # _____

The City acknowledges that it has no right, title or interest in or to the Safety Plan Designated Proceeds, except as set forth herein. Under no circumstances shall the Safety Plan Designated Proceeds be paid or delivered to or for the order of the City, except as set forth herein. The City hereby waives any rights that it may have to give alternative instructions as to the Safety Plan Designated Proceeds.

Section 2. Transfer and Application of Miscellaneous Plan Designated Proceeds.

Concurrently with the funding of the Obligation on the date hereof, the Bank is hereby irrevocably instructed to wire the Miscellaneous Plan Designated Proceeds in the amount of the \$_____, directly to CalPERS in accordance with the following wire instructions:

WIRE INSTRUCTIONS:

ABA#0260-0959-3
Bank of America Sacramento Main
555 Capitol Mall, Suite 1555
Sacramento, CA 95814
For credit to State of California, CalPERS
Account # _____

The City acknowledges that it has no right, title or interest in or to the Miscellaneous Plan Designated Proceeds, except as set forth herein. Under no circumstances shall the Miscellaneous Plan Designated Proceeds be paid or delivered to or for the order of the City, except as set forth herein. The City hereby waives any rights that it may have to give alternative instructions as to the Miscellaneous Plan Designated Proceeds.

Section 3. Termination; Unclaimed Money. These Instructions shall terminate when the Safety Plan Designated Proceeds and the Miscellaneous Plan Designated Proceeds have been transferred and received by the CalPERS, as provided herein.

Section 7. Counterparts. These Instructions may be executed in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, and all of which when taken together shall constitute one and the same Instructions.

IN WITNESS WHEREOF, the City has each executed these Irrevocable Refunding Instructions as of the date first above written.

CITY OF ATWATER

By: _____

Acknowledged and Agreed:

_____ BANK,
as Bank

By: _____

Title: _____

February 16, 2016

Honorable Mayor and Members
of the Atwater City Council

City Council Meeting
of February 22, 2016

**ADOPTING RESOLUTION DECLARING CITY'S INTENT TO TRACK
WATER USAGE USING TWO METHODS FOR THE STATE-
MANDATED WATER REPORTING**

RECOMMENDATION:

It is recommended that the City Council consider:

- Adopting Resolution No. 2877-16 declaring City's intent to track water usage using two methods; first, by including all users of water including the Atwater Elementary School District, Atwater High School District, Teasdale Food and the Federal Bureau of Prisons; and second, by excluding the aforementioned customers for State-mandated water reporting.

BACKGROUND:

On May 26, 2015, the City Council of the City of Atwater adopted Resolution No. 2823-15, which declared a local drought emergency and encouraged water conservation measures. The Council also enacted Ordinance No. CS 966 amending Chapter 13.13 of the Atwater Municipal Code to amend the City's Water Conservation Program. While the City has the requisite legal authority over most water users to require compliance with mandatory water conservation measures, there are a number of significant water users over whom the City's enforcement authority is limited by existing law. These include Atwater Elementary School District, Atwater High School District, Teasdale Food and the Federal Bureau of Prisons, each of which is supplied with non-potable water from the City of Atwater.

The Council has expressed interest in reporting water usage and the effectiveness of mandatory water reduction measures by excluding the Atwater Elementary School District, Atwater High School District, Teasdale Food and the Federal Bureau of Prisons. The City Attorney has found no prohibition on such reporting. The attached resolution therefore provides that the City of Atwater shall report its water reductions in two ways; first, by including all users of water including the Atwater Elementary School District, Atwater High School District, Teasdale Food and the Federal Bureau of Prisons; and second, by excluding the aforementioned customers.

FISCAL IMPACT:

None.

CONCLUSION:

This staff report is submitted for City Council consideration and possible action.

Respectfully submitted,

/s/ Thomas H. Terpstra

Thomas H. Terpstra
City Attorney



CITY COUNCIL OF THE CITY OF ATWATER

RESOLUTION NO. 2877-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ATWATER DECLARING CITY'S INTENT TO TRACK WATER USAGE USING TWO METHODS, INCLUDING AND EXCLUDING ATWATER ELEMENTARY SCHOOL DISTRICT, ATWATER HIGH SCHOOL DISTRICT, TEASDALE FOODS, AND ATWATER FEDERAL BUREAU OF PRISON FOR STATE-MANDATED WATER REPORTING

WHEREAS, California is currently facing one of the most severe droughts on record; and

WHEREAS, on January 17, 2014, the Governor of the State of California declared a state of emergency in the State of California due to current drought conditions in the state; and

WHEREAS, on April 25, 2014, Governor Brown issued an executive order to strengthen the state's ability to manage water and habitat effectively in drought conditions and called on Californians to redouble their efforts to conserve water; and

WHEREAS, the State Water Resources Control Board adopted emergency regulations for urban water conservation at its meeting on July 15, 2014; and

WHEREAS, the State Water Resources Control Board adopted additional emergency regulations for urban water conservation at its meeting on March 17, 2015; and

WHEREAS, on April 1, 2015, Governor Brown signed an executive order imposing additional drought restrictions and directed the State Water Board to impose restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016; and

WHEREAS, on May 26, 2015, the City Council of the City of Atwater adopted Resolution No. 2823-15, which declared a local drought emergency and encouraged water conservation measures; and

WHEREAS, on May 26, 2015, the City Council of the City of Atwater enacted Ordinance No. CS 966 amending Chapter 13.13 of the Atwater Municipal Code to amend the City's Water Conservation Program and imposing mandatory water conservation measures; and

WHEREAS, while the City of Atwater has the requisite legal authority over most water users to require compliance with mandatory water conservation measures, there are a number of significant water users over whom the City's enforcement authority is limited by existing law; and

WHEREAS, Atwater Elementary School District, Atwater High School District, Teasdale Food and the Federal Bureau of Prisons are supplied with non-potable water from the City of Atwater; and

WHEREAS, Atwater Elementary School District, Atwater High School District, Teasdale Food and the Federal Bureau of Prisons have targeted a 36% reduction in their water use; and

WHEREAS, the City of Atwater has determined that it is in the best interest of the City to adopt additional regulations on the tracking of water usage within the City's service areas that are needed to comply with the Governor's executive order and the State Water Resources Control Board regulations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Atwater that hereafter, in reporting water usage and the effectiveness of mandatory water reduction measures, the City of Atwater shall report its water reductions using two methods; first, by including all users of water including the Atwater Elementary School District, Atwater High School District, Teasdale Food and the Federal Bureau of Prisons; and second, by excluding the aforementioned customers.

The foregoing resolution is hereby adopted this 22nd day of February, 2016.

AYES:
NOES:
ABSENT:

APPROVED:

JAMES PRICE, MAYOR

ATTEST:

JEANNA DEL REAL, CITY CLERK