



CITY OF IONE
IONE, CA 95640

SPECIAL MEETING STARTS AT 6:00 PM

Mayor Stacy Rhoades
Vice Mayor Jack Mitchell
Councilmember Dominic Atlan
Councilmember Alison LaFayne
Councilmember Diane Wratten

AT 1 E. MAIN STREET, IONE, CA 95640

AND VIA ZOOM

The City of Ione is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

<https://zoom.us/j/2351961316?pwd=d3lWTW0zbVJlbQpQNXBDQWtpZkRyUT09>

Passcode: 95640

Find your local number: <https://zoom.us/u/aex3ZLbqgp>

WEDNESDAY, June 28, 2023

*THE CITY OF IONE IS A GENERAL LAW CITY DEDICATED TO PROVIDING LEADERSHIP,
ACCOUNTABILITY, AND FISCAL INTEGRITY WHILE PROMOTING ECONOMIC
OPPORTUNITIES AND MAINTAINING A HIGH QUALITY OF LIFE FOR OUR CITIZENS.*

PLEASE LIMIT PUBLIC COMMENT/TESTIMONY TO FOUR MINUTES

Gov't. Code §54954.3

The Ione City Council welcomes, appreciates, and encourages participation in the City Council Meeting. The City Council reserves the right to reasonably limit the total time for public comment on any particular noticed agenda item as it may deem necessary.

Full staff reports and associated documents are available for public review at the Office of the City Clerk, City Hall, 1 E. Main Street, Ione, CA. Hard copies may be obtained for \$3.60 for pages 1-5 and \$.45 for each additional page. Documents that are not available when the agenda is posted will be made available for public review at the meeting.

A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF AGENDA

D. PUBLIC COMMENT: EACH SPEAKER IS LIMITED TO 4 MINUTES

NOTE: This is the time for members of the public who wish to be heard on matters that do not appear on the Agenda. Persons may address the City Council at this time on any subject within the jurisdiction of the Ione City Council.



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Please be mindful of the 4 minute time limit per person. Pursuant to the Brown Act, the City Council may not take action or engage in a detailed discussion on an item that does not appear on the Agenda. However, matters that require Council action will be referred to staff for a report and/or recommendation for possible action at a future Council meeting. Is there anyone in the audience who wishes to address the Council at this time?

E. SPECIAL AGENDA:

1. Wastewater Operations and Maintenance Contract*

Recommendation: Adopt Resolution 2023- Authorizing the Interim City Manager to execute a one year contract with James Water Service Company for operations of the City's sewer collection system, wastewater treatment system and the Castle Oaks Water Reclamation Facility.*

F. ADJOURNMENT TO REGULAR MEETING ON JULY 18, 2023

Upcoming Meetings:

July 4th:	City Council Meeting	Cancelled
July 11th:	Planning Commission Meeting	6:00 P.M.
July 18th:	City Council Meeting	6:00 P.M.

NOTICE REGARDING CHALLENGES TO DECISIONS

Pursuant to all applicable laws and regulations, including without limitation, California Government Code Section 65009 and or California Public Resources Code Section 21177, if you wish to challenge in court any of the above decisions (regarding planning, zoning and/or environmental decisions), you may be limited to raising only those issues you or someone else raised at the public hearing(s) described in this notice/agenda, or in written correspondence delivered to the City at, or prior to, this public hearing.

ADA COMPLIANCE STATEMENT

In compliance with the American with Disabilities Act, if you need special assistance to participate in this meeting, please contact City Clerk Janice Traverso at (209) 274-2412, ext. 102. Notification 24 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.



CITY OF IONE
IONE, CA 95640

Agenda Item #E.1.

DATE: JUNE 27, 2023

TO: THE HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM: AMY GEDNEY, INTERIM CITY MANAGER AND
ANDREW PINASCO, CITY ATTORNEY**

SUBJECT: OPERATIONS CONTRACT FOR WASTEWATER SERVICES

RECOMMENDED ACTION:

Adopt resolution 2023-* Authorizing the City Manager to execute a one year contract with James Water Service Company for operations and maintenance of the city's wastewater facilities.

FISCAL IMPACT:

On an annual basis, this contract is \$116,806.56 more than the existing PERC contract. We currently pay PERC \$444,193.44

BACKGROUND:

The contract with PERC (Asset Management Service Agreement-the Contract) was first entered into between PERC and the City of Ione effective July 1, 2009. The Contract was executed by the City Manager and City Attorney at the time. Subsequently, the Contract was extended from the initial two-year term (2009-2011) to 2013 and thereafter to 2019 and 2021. All of the extensions were duly executed, with the last two extensions being accomplished by letter agreement and approved as to form by the City Attorney. In 2021 the City Council approved the final two-year extension allowed by the Contract. PERC's Contract expires on June 30, 2023.

In April, the City was contemplating extending the PERC contract and had several discussions with PERC to that effect. The City had intended on an extension which would give the City time to perform an audit of the plant to assist in preparing a future Request for Proposals, RFP, as well as to assist with risk assessment for future contract negotiations. On May 19, 2023, however, PERC submitted a letter indicating that they no longer wished to continue operating the plant after June 30, 2023.

On May 31, 2023, staff issued an RFP for potential contractors to perform this work. Subsequently, a tour of the plant was completed on June 7, 2023 where four potential contractors toured the plants. The City received three proposals on June 15, 2023. On June 19, 2023, the City conducted interviews with the three potential contractors.

The interview panel consisted of the two members of the Wastewater Committee, Mayor Rhoades and Vice Mayor Mitchell as well as three technical experts – Jim Mulligan, an engineer from West Yost, Craig Miller from Amador Water Agency, and Hugh Logan, General Manager from San Andreas Sanitary District. It should be noted that the RFP process typically takes three to four months. Due to a lack of time and notice, this process is being completed in two weeks to ensure that 1) we have an operator on site July 1 and 2) a new operator has time for cross training with PERC.

DISCUSSION:

Below is a breakdown of the three proposals by cost:

Firm	Cost/Month
Veolia	\$53,588
James Water Service Company	\$46,750
AQuality	\$57,728

Each firm has reputable staff and all are capable of operating our wastewater plants.

The contract was modelled after the existing contract with PERC. The term is one year with an option of extensions for three year periods. This will allow for a year's time to evaluate the current state of the wastewater plants as well as adjust to operational issues in partnership with JWSC. Additionally, the City also needs to undertake a rate study. As noted above, the monthly cost for one year is \$46,750. The annual cost will be \$561,000.

It should also be noted that our sewer operations are an enterprise system and during this next year, the City also needs to undertake a rate study. The last rate study was completed in 2004. The rate study is necessary to evaluate continuing costs of this enterprise system.

RESOLUTION NO. 2023-*

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF IONE AUTHORIZING
THE CITY MANAGER TO EXECUTE A ONE YEAR CONTRACT WITH JAMES
WATER SERVICE COMPANY FOR OPERATIONS AND MAINTENANCE OF THE
CITY'S WASTEWATER FACILITIES**

WHEREAS, the City desires to have a contract operator for operations and maintenance of its wastewater systems; and

WHEREAS, the City's Municipal Code Section 2.44.150 requires that any professional services contract over \$50,000 go out to bid; and

WHEREAS, the City issued a Request for Proposals on May 31, 2023 and on June 15, 2023 the City received three proposals; and

WHEREAS, after conducting interviews, an interview panel made up of two city council members and three independent wastewater professionals, said panel has selected James Water Service Company, and

WHEREAS, the contract contained herein is for one year with the option of three year renewal extensions.

NOW, THEREFORE, BE IT RESOLVED, that the City Council does hereby authorize the City Manager to execute a one year contract with James Water Service Company for operations and maintenance of its wastewater systems as contained in Attachment A.

The foregoing resolution was duly introduced and adopted by the City Council of the City of Ione at a special meeting held on June 28, 2023 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Attest:

Stacy Rhoades, Mayor

Janice Traverso, City Clerk

OPERATIONS, MAINTENANCE, AND MANAGEMENT SERVICE AGREEMENT

THIS OPERATIONS, MAINTENANCE, AND MANAGEMENT SERVICE AGREEMENT (this "Agreement") is made and entered into as of June 26, 2023, by and between **THE CITY OF IONE**, a California incorporated city ("Owner") and **JAMES WATER SERVICE**, a [a wastewater operations contractor] ("JWS").

RECITAL

Owner and JWS desire to enter into this Agreement to provide for the operation and maintenance of a Wastewater Treatment Facility, Tertiary Treatment Facility and Sewer Collection System owned by Owner and located in the City of Ione, California (collectively; the "Facility"), upon the terms and conditions set forth herein.

NOW, THEREFORE, the parties hereto agree as follows:

1. **AGREEMENT.** Owner and JWS agree that JWS will perform the services described herein with respect to the Facility, upon the terms and conditions set forth herein.
2. **DEFINITIONS.** The following terms, when used herein (and in the Appendices attached hereto) with initial capitalization, shall have the following meanings:
 - 2.1. **Agreement:** This Agreement and Appendices A, B, C and D attached hereto, as amended from time to time.
 - 2.2. **Annual Budget:** The estimated annual cost for the Work as agreed to by the Parties pursuant to Appendix A.
 - 2.3. **Appendix A:** Annual Budget and Compensation.
 - 2.4. **Appendix B:** Required Insurance and Insurance Certificates.
 - 2.5. **Appendix C:** Acceptable influent characteristics for the WWTP and the COWRP.
 - 2.6. **Applicable Law:** As defined in Section 15.1 hereof.
 - 2.7. **Compensation:** The amount to be paid to JWS by Owner for the performance of the Work, as determined pursuant to Appendix A.
 - 2.8. **COWRP:** The Tertiary Treatment Plant.
 - 2.9. **Documentation:** Drawings, specifications, procedures, instructions, reports, test results, calculations, manuals, schedules and other data to be provided by JWS in the performance of the Work.
 - 2.10. **Facility:** Collectively, the WWTP, the COWRP and the Sewer Collection System.
 - 2.11. **JWS Representative:** The designated representative of JWS who is authorized, in writing, to act on behalf of JWS for the purpose of fulfilling the requirements set forth in this Agreement.

- 2.12. **Owner Representative**: Owner's employee or designated representative who is authorized, in writing, to act on behalf of Owner for the purpose of fulfilling the requirements set forth in this Agreement.
- 2.13. **Material**: Any and all material, equipment, and supplies, including consumable supplies, tools, chemicals, and personal supplies, purchased or provided by JWS for performance of the Work under this Agreement.
- 2.14. **Sewer Collection System**: All sewer piping within the City's Sanitary Sewer Collection System starting with the lateral connection of each sewer customer and ending at the influent lift station at the WWTP and including all three (3) Sewer Pump Stations.
- 2.15. **Work**: The operation and maintenance of the Facility to be performed by JWS as described in Section 4 hereof.
- 2.16. **WWTP**: The Wastewater Treatment Plant.

3. **TERM AND TERMINATION.**

- 3.1. **Term**. This Agreement shall be effective upon execution by the parties hereto and shall continue in effect for an initial period of one (1) year. Thereafter, unless sooner terminated by either party hereto pursuant to Section 3.2 hereof ("the Term"). This Agreement may be extended for additional three (3)-year periods as mutually agreed by the parties hereto.
- 3.2. **Termination**. This Agreement may be terminated by either party hereto following sixty (60) days' written notice following a material breach or default by the other party hereunder unless prior to the expiration of such sixty (60)-day period such breach or default is cured.
- 3.3. **Effect of Termination**. Upon expiration or termination of this Agreement, Owner shall pay to JWS all amounts due hereunder through the expiration or termination date and JWS shall deliver to Owner all Documentation in JWS's possession and control.

4. **SCOPE OF WORK.** During the Term, JWS shall perform the Work consisting of activities necessary for the normal operation of the Facility. JWS shall perform the Work subject to and in accordance with the terms and provisions of this Agreement. In its performance of the Work, JWS shall do the following:

4.1. **Initial Tasks**

- 4.1.1. During the first sixty (60) days of the Term, provide to Owner evaluations of each segment of the Facility (the WWTP, the COWRP and the Sewer Collection System).
- 4.1.2. During the first ninety (90) days of the Term, provide to Owner a power consumption analysis for the WWTP and the COWRP to identify possible power efficiencies.
- 4.1.3. During the first ninety (90) days of the Term, review with Owner Standard Operating Procedures for each segment of the Facility.

4.2. Oversight and Management.

- 4.2.1. Provide oversight and management for all Facility operations.
- 4.2.2. Provide a Wastewater Superintendent/Project Manager possessing at a minimum a California Grade 4 Certification.
- 4.2.3. Provide and supervise staff to operate and maintain the Facility.
- 4.2.4. Staff the WWTP eight (8) hours per day on weekdays and as needed on weekends and holidays.
- 4.2.5. Perform daily and weekly inspections of the Facility as required by any applicable permit or license.
- 4.2.6. Provide on-call staffing for after-hours response to all emergencies with respect to the Facility.
- 4.2.7. Provide ongoing training for the Facility's staff, as needed.
- 4.2.8. Operate the Facility in accordance with Applicable Law.
- 4.2.9. Assist with the completion of annual reports, quarterly reports, compliance status reports, and wastewater discharge reports for the Facility, as needed, all of which will be submitted to the City Manager of Owner (the "City Manager") for approval prior to submission.
- 4.2.10. Continue the use of a Computerized Maintenance Management Program ("CMMS") reflecting OEM recommended maintenance requirements for all mechanical equipment and structures of the Facility and review proposed maintenance schedule with Owner. At either contract termination or the end of the contractual term, JWS agrees to leave the CMMS for use by City staff.
- 4.2.11. Provide a monthly Total Asset Management Report for the Facility to be presented during the monthly operations review meeting with the City Manager and other representatives of Owner. City Manager may determine a meeting schedule of less than once per month at Owner's discretion.
- 4.2.12. Develop and manage a Capital Improvement Plan ("CIP") and Annual Financial Budget for the Facility and review the CIP and Annual Financial Budget for the Facility with Owner.
- 4.2.13. If necessary, assist Owner's wastewater consultant in developing a Report of Waste Discharge for the Facility.
- 4.2.14. Review and update current reporting procedures for spills and overflows related to the Facility as required by the State.
- 4.2.15. Manage and supervise vendors and service providers for the Facility, as needed.
- 4.2.16. Maintain Standard Operating Procedures for the Facility.

- 4.2.17. Provide insurance as required in Appendix B and as evidenced by the Certificates of Insurance attached hereto as Appendix B. All coverage available to the named insured, with the exception of professional liability insurance, shall also be available and applicable to the additional insured.
- 4.2.18. Provide uniforms and communication devices for the Facility's staff.
- 4.2.19. Assist the City Manager, City Council or Owner ("City Council") and Owner's Engineers on compliance issues, permit issues, cease and desist orders and Regional Water Quality Control Board ("RWQCB") communication with respect to the Facility.
- 4.2.20. Attend City Council meetings with respect to matters related to the Facility, as needed.

4.3. Sewer Collection System.

- 4.3.1. Operate and maintain the Sewer Collection System components year-round.
- 4.3.2. Create and maintain a daily operational log for the Sewer Collection System.
- 4.3.3. Respond to sewer backups and spills in compliance with Owner's sewer backup response plan and Applicable Law.
- 4.3.4. Keep all areas associated with Sewer Collection System neat and clean at all times.
- 4.3.5. Provide and/or self-perform all quarterly service of the Sewer Collection System so that all hot spots are cleaned every quarter and so that 20% of the system is cleaned yearly.
- 4.3.6. Work with the City Engineer to create a system of sewer zones to standardize future maintenance and cleaning of the sewer system.
- 4.3.7. Review, develop and amend, as needed, the existing Sewer System Maintenance Program associated reports for spill response, problems and back-up sites for the Sewer Collection System.

4.4. Secondary Wastewater Treatment Plant.

- 4.4.1. Perform all day-to-day operational tasks to properly operate and maintain the WWTP year-round.
- 4.4.2. Perform and/or facilitate all necessary repair and maintenance to the WWTP process equipment and infrastructure. JWS will be responsible for any labor costs associated with repair and maintenance with the exception of any outside contractors necessary for maintenance. The WWTP has an annual maintenance budget of \$50,000 which will be spent only on materials or outside contractors. JWS will provide the City with a monthly accounting of all expenditures from this budget and, if remaining budget is left at the end of each fiscal year, JWS agrees to split any cost savings with the City of Ione.

- 4.4.3. Collect and analyze wastewater samples from the WWTP as defined in the RWQCB Monitoring and Reporting Program R5-2013-0022, the Waste Discharge Requirements R5-2013-0022, and the Cease and Desist Order R52013-0023, copies of which has been previously delivered to JWS, with the exception of all sampling related to groundwater monitoring.
- 4.4.4. Create and maintain a daily operational log for the WWTP.
- 4.4.5. Provide completed annual reports, quarterly reports, compliance status reports, and wastewater discharge reports for the WWTP, as needed, all of which will be submitted to the City Manager for approval prior to submission.
- 4.4.6. Keep all areas associated with the WWTP neat and clean at all times.

4.5. Tertiary Treatment Plant.

- 4.5.1. Perform all day-to-day operational tasks to properly operate and maintain the COWRP during operating season which is typically March to October.
- 4.5.2. Perform and/or facilitate all necessary repair and maintenance to the COWRP process equipment and infrastructure. JWS will be responsible for any labor costs associated with repair and maintenance with the exception of any outside contractors necessary for maintenance. The COWRP has an annual maintenance budget of \$[AMOUNT] which will be spent only on materials or outside contractors. JWS will provide the City with a monthly accounting of all expenditures from this budget and, if remaining budget is left at the end of each fiscal year, JWS agrees to split any cost savings with the City of Ione.
- 4.5.3. Collect and analyze wastewater samples from the COWRP as defined in the Monitoring and Reporting Programs 93-240, a copy of which has been previously delivered to JWS, with the exception of all sampling related to groundwater monitoring.
- 4.5.4. Create and maintain a daily operational log for the COWRP.
- 4.5.5. Keep all areas associated with the COWRP neat and clean at all times.
- 4.5.6. Communicate with Castle Oaks Golf Course staff to ensure sufficient water supply and ensure compliance with Portlock Agreement, a copy of which has been previously delivered to JWS.
- 4.5.7. Coordinate and communicate with Amador Regional Sanitation Authority staff regarding water flows and requests to accept more water as identified in the ARSA Agreement, a copy of which has been previously delivered to JWS.
- 4.5.8. Coordinate and communicate with Mule Creek State Prison staff in compliance with the ARSA Agreement.

- 4.6. **Effluent Warranty.** So long as influent wastewater received by the WWTP and by the COWRP is within the acceptable ranges for influent characteristics set forth in Appendix C attached hereto, JWS is fully responsible for providing

effluent that complies with Applicable Law and all permits applicable to the WWTP and the COWRP, respectively. Notwithstanding any other provisions of this Agreement, if JWS fails to meet the requirements of this Section 4.6, JWS is fully responsible for payment of any fines or penalties that may be imposed on Owner as a result of failing to provide effluent that complies with Applicable Law and all permits applicable to the WWTP and the COWRP, respectively.

5. **INDEPENDENT CONTRACTORS.** Owner shall permit JWS to perform the Work through the utilization of agents or independent contractors; provided, however, that such agents or independent contractors shall be subject to the reasonable approval of Owner.

6. **COVENANTS OF OWNER.**

6.1. **Cooperation.** During the Term, Owner shall provide such reasonable assistance and cooperation as JWS may request in connection with performance of the duties and obligations of JWS under this Agreement.

6.2. **Support.** Owner shall provide the following in support of the Work to be performed by JWS:

6.2.1. All permits necessary for operation of the Facility;

6.2.2. Water supply - the WWTP, the COWRP and domestic use

6.2.3. Chemicals at the WWTP;

6.2.4. Fuel for the emergency generator at the WWTP;

6.2.5. Electric supply - the WWTP and the COWRP;

6.2.6. Land for the Facility;

6.2.7. Facilities for operating personnel including office space, storage, and work areas;

6.2.8. Liquid and solid waste disposal including trash, grit and sludge;

6.2.9. Copies of existing operation and maintenance instruction manuals, design, and as-built drawings; and

6.2.10. After a Capital Improvement Plan has been developed, a Capital Reserve Fund for use in connection with the maintenance and replacement of equipment and the structures of the Facility.

6.3. **Right of Entry.** Owner shall provide the right of entry upon the premises of the Facility to personnel of JWS, or its agents or independent contractors, as applicable, to perform the Work, subject to the observation of all safety, security and other rules of Owner. In addition to the foregoing, Owner shall provide for permanent clearances for immediate entry upon its premises of a designated and identified number of personnel employed by JWS, or its agents or independent contractors, as applicable, to repair or service the Facility in the event of an emergency. The existence of an emergency necessitating immediate entry of said personnel upon Owner's property shall be determined in the sole discretion of JWS, or its agent or independent contractor, as applicable.

7. **COMPENSATION.** During the Term, Owner shall pay to JWS, as compensation for JWS performance of the Work, the Service Fee as determined pursuant to Appendix A attached hereto.

8. **PAYMENTS.**

8.1. **Monthly Payments** On or before the fifteenth (15th) day of each month, Owner shall pay to JWS the applicable amount set forth in Appendix A attached hereto. JWS shall submit an invoice for the applicable amount no later than the first (1st) day of each month.

8.2. **Late Charges** Any amount due JWS hereunder which is not paid by the due date shall thereafter bear interest at a rate equal to one and one-half percent (1 1/2%) per month, or the maximum legal rate, whichever is less, on the unpaid amount prorated by days until the payment of such unpaid amount is received by JWS.

9. **INDEMNIFICATION.**

9.1. **Indemnification.** To the fullest extent permitted by law, JWS shall indemnify, hold harmless and defend Owner, its officers, agents, employees and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of JWS or any of its officers, employees, servants, agents, or subcontractors in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of Owner's choice. JWS agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 9 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of JWS in the performance of this Agreement. This hold harmless and indemnification provision shall apply regardless of whether any insurance policies are determined to be applicable to the claim, demand, damage, liability, cost, or expense.

9.2. **Exceptions** Owner shall not be indemnified under this Section 9 for its liability resulting from its own negligence or willful or intentional misconduct or omission.

9.3. **Insurance.** The provisions of this Section 9 shall not be construed to relieve any insurer of its obligations to pay any insurance claims in accordance with the provisions of any valid insurance policy.

10. **FAILURE OF FACILITY.** JWS shall not be liable for any claims, damages, costs, expenses or liabilities that arise from, or are based upon, the failure of the Facility to be able to operate as designed and such failure results in any noncompliance with any Applicable Law or governmental or judicial decree or order in effect with respect to the Facility unless such noncompliance is the result of JWS's negligence or failure to operate the Facility in accordance with the Scope of Work hereunder and in accordance with good industry standards.

11. **UNCONTROLLABLE FORCES.** Neither party hereto shall be considered to be in default in the performance of any of its obligations under this Agreement (other than obligations of said party to pay money) when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" shall mean any occurrence beyond the control of the party affected including, but not restricted to flood, earthquake, storm, fire, lightning, and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strike, labor dispute, labor or material shortage, action or inaction of legislative,

judicial, or regulatory agencies or other proper authority, which may conflict with the terms of this Agreement, or failure, threat of failure, or sabotage of the Facility including, without limitation, damage caused by influent received by the Facility that is not within the range of influent characteristics set forth in Appendix C attached hereto, or any change in Applicable Law that financially impacts the performance of the Work, so long as the Facility has been maintained in accordance with reasonable and customary engineering and operating practices in California, which by exercise of due diligence such party could not reasonably have been expected to avoid and which by exercise of due diligence it has been unable to overcome. Nothing contained herein shall be construed so as to require either party to settle any strike or labor dispute in which it may be involved. If either party is rendered unable to fulfill any of its obligations under this Agreement by reason of an uncontrollable force, such party shall give prompt written notice of such fact to the other party and shall exercise due diligence to remove such inability with all reasonable dispatch.

12. **SEVERAL OBLIGATIONS.** In the event that any of the terms, covenants or conditions hereof or the application of any such term, covenant or condition shall be held invalid as to either party hereto or in any circumstance by any court having jurisdiction, the remaining terms, covenants and conditions and the application thereof to either party hereto or in any circumstance shall not be affected thereby.

13. **NON-WAIVER.** The failure of Owner or JWS to enforce any of the terms and conditions or to exercise any right or privilege under this Agreement shall not be construed as thereafter waiving any such terms and conditions or right or privilege and the same shall continue and remain in force and effect as if no such failure to enforce or exercise had occurred. No waiver shall be valid unless stated in writing.

14. **NO THIRD-PARTY RIGHTS.** The parties hereto do not intend to create rights in, or grant remedies to, any third party as a beneficiary of this Agreement, or to create any duty, covenant, obligation or understanding established under this Agreement for the benefit of any third party, except as otherwise expressly stated herein.

15. **PERMITS, CODES AND STATUTES.**

15.1. **Compliance with Law.** JWS shall comply with all applicable statutes, laws, acts, ordinances, regulations, codes, standards, rules and administrative interpretations thereof, of federal, state and local governmental agencies having regulatory jurisdiction with respect to, or applicable to, the Facility as of the date hereof

15.2. **Permits** Owner shall obtain from the appropriate agency or agencies any permits or licenses necessary and required to enable JWS, or its agent or independent contractors, to operate and maintain the Facility. JWS agrees to cooperate with Owner in procuring any such permits or licenses.

16. **TECHNICAL DATA AND DOCUMENTATION.** JWS shall use, and shall be entitled to reasonably rely on, the most recent technical data and other information which Owner has furnished to JWS, or caused to be furnished to JWS by others, for use in performing the Work.

17. **TITLE.**

17.1. **Material.** Title to the Material shall pass directly from the supplier to Owner when purchased and shall be free and clear of all liens and encumbrances.

17.2. **Documentation.** Title to Documentation shall pass to Owner when prepared.

17.3. **Effluent.** All effluent from the Facility shall at all times be owned by Owner.

18. **NOTICES.** All notices and correspondence pertaining to this Agreement shall be in writing and shall be sufficient if delivered in person, via facsimile, via overnight courier or sent by certified mail, postage prepaid, to the other party addressed respectively as follows:

To JWS: James Water Service
14063 Morning Glory
Chico, CA 95973

To Owner: City of Ione
1 Main Street
P.O. Box 398
Ione, CA. 95640
Attention: Amy Gedney, Interim City Manager
Fax No.: 209-274-2830

All notices sent pursuant to this Section shall be effective upon the earliest of receipt, confirmed facsimile transmission, one (1) day after delivery to an overnight courier or three (3) days after deposit in the United States mail. Either party hereto may, at any time, by notice to the other party, designate different or additional persons or different addresses for the giving of notices hereunder.

19. **SECTION HEADINGS.** Section headings appearing in this Agreement are inserted for convenience only, and shall not be construed as interpretations of the provisions hereof.

20. **GOVERNING LAW.** This Agreement shall be governed and construed under the laws of the State of California.

21. **ASSIGNMENT.** Except as provided in Section 5 hereof, this Agreement shall not be assigned or transferred, in whole or in part, by either party hereto or by operation of law, without the prior written consent of the other party, and any attempt to do so shall be null and void; provided, however, that no such consent shall be needed if either party sells substantially all of its assets or engages in a merger with another entity.

22. **ENTIRE AGREEMENT - AMENDMENT.** This Agreement, the documents referred to herein and Appendices A, B, C and D attached hereto, which by this reference are incorporated herein, contain the entire agreement and understanding between the parties as to the subject matter of this Agreement and merge and supersede all prior agreements, commitments, representations, and discussions, verbal or written, between the parties hereto pertaining to the subject matter of this Agreement and may not be amended or modified except by a writing executed by both parties hereto.

23. **EXECUTION.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original and together will constitute one Agreement. The exchange of copies of this Agreement and of signature pages by facsimile or other electronic transmission shall constitute effective execution and delivery of this Agreement by the parties. Signatures of the parties transmitted by facsimile or other electronic means shall be deemed to be their original signatures for all purposes.

24. **APPROVAL.** Any approval or consent required by either party hereto shall not be unreasonably withheld, conditioned or delayed.

25. **SUCCESSORS AND ASSIGNS.** This Agreement shall inure to the benefit of and are binding upon the parties hereto and their respective heirs, representatives, successors and permitted assigns.

26. **WAIVER.** All waivers hereunder shall be in writing. No waiver by any party hereto of any breach or anticipated breach of any provision of this Agreement by any other party shall be deemed a waiver of any other contemporaneous, preceding, or succeeding breach or anticipated breach, whether or not similar, on the part of the same or any other party.

27. **FURTHER ASSURANCES** Each party hereto agrees, without additional consideration, to execute any and all further documents and writings and to perform such other actions, which may be or become necessary or expedient to effectuate and carry out this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have duly executed and delivered this Asset Management Service Agreement as of the date first above written.

City of Ione

James Water Service

By: _____ By: _____

**Amy Gedney
Interim City Manager**

**Kathy Stone
General Manager
James Water Service Company**

Approved as to Form

By: _____
**Andy Pinasco
City Attorney, City of Ione**

APPENDIX A
COMPENSATION AND FEE SCHEDULE

Service Fee

Monthly	Annual
\$46,750	\$561,000

Future Years' Service Fee Adjustments

For the purpose of future year prices beyond the first year of operations, all prices for the Work and included in Subtotal Monthly Service Fee set forth above shall be adjusted at a rate of either: (1) the percentage change in the consumer price index for the San Francisco region during the period between the commencement of the Term, or the commencement of any subsequent one-year period, as applicable, and the end of the one-year period immediately preceding such adjustment; or (2) 4.0% annual rate, whichever is lesser, but not to exceed 4% per annum. This adjustment does not apply to any items billed on a "cost plus" basis.

State Sales Use and Privilege Taxes

Taxes charged by any government agency shall be billed on a separate invoice to Owner as a Non-Routine Service at cost, with no markup for overhead or profit. Payment of such taxes to JWS by Owner shall be due upon Owner's receipt of JWS's invoice.

Invoicing

JWS shall invoice Owner in accordance with Section 8.1 hereof. The scheduled monthly Service Fee amount to be invoiced is set forth above.

Additional Services Fee

Any additional services that JWS provides in addition to the Scope of Work detailed in Section 4 hereof will be invoiced on a cost plus 10% basis.

APPENDIX B

INSURANCE REQUIREMENTS & CERTIFICATES OF INSURANCE¹

¹ In addition to the insurance requirements outlined herein, contractor has agreed to provide pollution liability insurance coverage in the amount of \$1M per occurrence, \$2M in the aggregate with the City named as an additional insured party

**CITY OF IONE
INSURANCE REQUIREMENTS**

1. THIS CONTRACT/AGREEMENT SHALL NOT BE EXECUTED BY CITY and the CONTRACTOR is not entitled to any rights, unless certificates of insurances, or other sufficient proof that the following provisions have been complied with, and such certificate(s) are filed with the CITY CLERK.
- II. Without limiting Contractor's indemnification provided herein, Contractor shall and shall require any of its subcontractors to take out and maintain, throughout the period of this Agreement, the following policies of insurance placed with insurers with a current A.M. Best's rating of no less than A:VII or its equivalent against injury/death to persons or damage to property which may arise from or in connection with the activities hereunder of Contractor, its agents, employees or subcontractors:
 - A. Comprehensive or Commercial General Liability Insurance at least as broad as Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001), in an amount of \$5,000,000 per occurrence. If work involves explosive, underground or collapse risks, XCU must be included. If a general aggregate limit is used, either the general aggregate limit shall apply separately to this project or the general aggregate shall be twice the required occurrence limit. Said policy shall contain, or be endorsed with, the following provisions:
 - (1) The City, its officers, employees and agents, are covered as additional insured for liability arising out of the operations performed by or on behalf of Contractor. The coverage shall contain no special limitations on the scope of protection

afforded to the City, its officers, agents, and employees.

- (2) The policy shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (10 days for non-payment of the premium) to CITY by certified mail.
 - (3) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.
 - (4) For claims related to this project, the Contractor's insurance is primary coverage to the City, and any insurance or self-insurance programs maintained by the City are excess to Contractor's insurance and will not be called upon to contribute with it.
 - (5) Any failure to comply with reporting or other provisions of the parties, including breach of warranties, shall not affect coverage provided to City, its officers, employees, and agents.
- B. Automobile liability insurance with coverage at least as broad as Insurance Services Office form CA 0001 06092, Code I (any auto), for vehicles used in the performance of this Agreement with minimum coverage of not less than \$1,000,000 per accident combined single limit (CSL). Such policy shall contain or be endorsed with the provision that coverage shall not be canceled or materially reduced in coverage without thirty (30) days prior written notice (10 days for non-payment of premium) to CITY by certified mail.

- C. Workers' Compensation insurance meeting statutory limits of the California Labor Code which policy shall contain or be endorsed to contain a waiver of subrogation against City, its officers, agents, and employees and provide for thirty (30) days prior written notice in the event of cancellation. If Contractor has no employees, Contractor may sign and file the following certification in lieu of insurance:

"I am aware of the provisions of the California Labor Code Section 3700 which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with provisions of that code before commencing with and during the performance of the work of this contract."

- D. Professional liability insurance/errors and omission coverage in an amount no less than \$1,000,000 combined single limit (CSL). If insurance is written on claims made basis, Contractor agrees to maintain such insurance in effect for at least three (3) years following completion of performance under this Agreement.
- E. Contractor shall furnish CITY with certificates and original endorsements effecting the required coverage prior to execution of this Agreement by City. The endorsements shall be on forms as approved by the City Manager or designee. Any deductible or self-insured retention over \$100,000 shall be disclosed to and approved by City. If Contractor does not keep all required policies in full force and effect, CITY may, in addition to other remedies under this Agreement, take out the necessary insurance, and Contractor agrees to pay the cost of said insurance.

APPENDIX C

ACCEPTABLE INFLUENT CHARACTERISTICS

WWTP

Secondary Wastewater Treatment Plant (WWTP)

	Influent	Effluent
PWWF (MGD)	[AMOUNT]	[AMOUNT]
AWWF (MGD)	[AMOUNT]	[AMOUNT]
BOD (mg/L)	[AMOUNT]	[AMOUNT]
Total Suspended Solids (mg/L)	[AMOUNT]	[AMOUNT]
pH		[AMOUNT]
Dissolved Oxygen mg/L		[AMOUNT]
Effluent Pond Freeboard (ft)		[AMOUNT]

Influent parameters are based on the Facility Design Criteria as defined in the O&M Manual. Effluent parameters are based on permit requirements.

COWRP

Castle Oaks Water Reclamation Plant (COWRP)

	Influent	Effluent
Flow-Monthly Average	[AMOUNT]	[AMOUNT]
Turbidity (NTU) Daily Max	[AMOUNT]	[AMOUNT]
Turbidity (NTU) Monthly Median		[AMOUNT]
Suspended Solids (mg/L)	[AMOUNT]	
BOD - Monthly Average (mg/L)	N/A	[AMOUNT]
BOD - Daily Max (mg/L)		[AMOUNT]
Total Coliform - Monthly Median (MPN/100 ml)	N/A	[AMOUNT]
Total Coliform - Daily Max (MPN/100 ml)	N/A	[AMOUNT]
Settleable Matter - Monthly Average (ml/L)	N/A	[AMOUNT]
Settleable Matter - Daily Max (ml/L)	N/A	[AMOUNT]

Influent parameters are based on the Facility Design Criteria as defined in the O&M Manual. Effluent parameters are based on permit requirements.

APPENDIX D

EXCLUSIONS FROM WORK

The following are excluded from the Work to be performed by JWS:

1. Any off-site operation or maintenance of any tail-water system;
2. Any off-site operation or maintenance of any sprinkler irrigation system;
3. Any sludge removal from any of the ponds used in connection with the Facility; and
4. Any obligations to design construct or install any improvements in connection with, or modifications to the Facility as required by any of the Current Discharge Permits.