RESOLUTION NO. 2015-34

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, ESTABLISHING A POLICY ENTITLED "ENTERPRISE ACCOUNTABILITY AND OVERSIGHT ACT"

WHEREAS, the Enterprise Accountability and Oversight Act (the "Act") will provide policies and practices to ensure enterprise capital projects are properly managed and completed on-time and on budget; and

WHEREAS, the Act will implement policies and practices to enhance project management for enterprise capital projects; and

WHEREAS, the Act will ensure funds earmarked for enterprise capital projects are only spent on the specific project identified; and

WHEREAS, The Act will ensure the issuance of enterprise revenue bonds contain bond covenants that prohibit use of the funds for other capital projects or any General Fund use; and

WHEREAS, the Act will ensure that any enterprise capital funds that are realized efficiencies and savings are moved to an appropriate reserve account; and

WHEREAS, the Act will ensure that future funds received for a multiyear enterprise capital project including state and federal grants be reviewed and, if justified, applied to rate reductions; and

WHEREAS, the Act will establish and oversight board to review the implementation and management of enterprise capital projects; and

Date Adopted : 2/26/2015
Date Approved: 3/09/2015
Effective Date : See Sec 2

WHEREAS, the Act will improve communications with the Council and City enterprise staff on the progress of all large enterprise capital projects; and

WHEREAS, accomplishing the objectives set forth in the Act will provide effective fiscal management of enterprise capital projects protecting the best interests of rate payers.

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

SECTION 1. The Council hereby adopts the attached Exhibit "A" Enterprise Accountability and Oversight Act as a formal Council policy.

SECTION 2. This resolution shall become effective upon its adoption.

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

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the 26th day of February, 2015.

AYES : Brand, Brandau, Caprioglio, Olivier, Quintero, Soria, Baines
NOES : None
ABSENT : None
ABSTAIN : None

Mayor Approval: N/A, 2015
Mayor Approval/No Return: March 9, 2015
Mayor Veto: N/A, 2015
Council Overide Vote: N/A, 2015

YVONNE SPENCE, CMC
City Clerk

BY: Yvonne Spence
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

BY: 3/10/15
Katherine B. Doerr [DATE]
Assistant City Attorney

KBD:ns [67127ns/reso]- 2/23/15

CITY OF FRESNO
ENTERPRISE ACCOUNTABILITY & OVERSIGHT ACT

February 22, 2015

The following policies are enacted to provide policies and practices to improve the financial management of Enterprise Projects in the City.

ARTICLE I
DEFINITIONS

Capital Expenses
Capital Expenses are expenditures creating future benefits. A capital expenditure is incurred when monies are spent to either buy fixed assets or to add to the value of an existing fixed asset with a useful life that extends beyond the fiscal year. In accounting, a capital expenditure is added to an asset account ("capitalized"), thus increasing the asset's basis (the cost or value of an asset). For taxpaying entities, capital expenditures are costs that cannot be deducted in the year in which they are paid or incurred, and must be capitalized. The general rule (even for municipalities) is that if the property acquired has a useful life longer than the taxable/fiscal year, the cost must be capitalized. The capital expenditure costs are then amortized or depreciated over the life of the asset in question

City
"City" means the City of Fresno, a municipal corporation.

Charter Section 1221
City Charter Section 1221 give the City the power to acquire, construct, establish, improve, extend, maintain, operate, administer, lease, sublease, and sublet any revenue producing utility including all improvements, buildings, systems, plants, works, facilities, or undertakings used or useful in.

Charter Section 1222
City Charter Section 1222 authorizes the Council to issue Revenue Bonds by a resolution of five affirmative votes of the Council at a duly assemble meeting. Section 1222 (a) (3) states that all such revenue bonds shall be paid exclusively from the operation of any revenue-producing utility referred to in Section 1221 of the Charter, or such specific portions thereof as may be allocated and pledged to the payment of such revenue bond, in accordance with the terms of the resolution under which said revenue bonds are authorized to be issued.

Enterprise Funds
A fund established to account for operations that are financed and operated in a manner similar to private business enterprises, where the intent of the government body is that the cost of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges. Department of Public Utilities Water, Waste Water, and Solid Waste are Enterprise Funds, as well as Airports and FAX.

Fresno City Charter
The City of Fresno was incorporated in 1885. The City adopted its current charter structure on April 8, 1957.

General Fund
Revenues of the City that are not otherwise restricted as to their use, including monies from local property and sales tax, and other revenue sources. The General Fund pays for City services such as police; fire; public works; elected offices; City Manager; City Clerk; City Attorney; parks and recreation, and community services.

Infrastructure
Facilities that support the daily life and growth of the City, including roads, water and sewer lines, public buildings, parks and airport facilities.

Ratepayers
Ratepayers are people who pay a certain charge for utility services.

Reserve Management Act
This Act was adopted by the Council in 2011. The Act was enacted to develop responsible, comprehensive Fund Balance/Reserve management policies for the City and to comply with Government Accounting Standards Board Statement no. 54, Fund Balance Reporting and Governmental Fund Type Definitions.

Revenue Bonds
Revenue Bonds are bonds issued by governments and public agencies that are secured by the revenue flow of the issuing agency. Revenue Bonds typically refer to bonds secured by enterprise revenues, such as water, wastewater, or refuse collection utilities. Since the debt service is directly paid from and secured by special funds, such debt is not subject to the State Constitutional Debt Limit. The City typically issues Revenue Bonds under its Charter powers. Revenue bonds are sometimes issued as Certificates of Participation secured by an installment sale or installment purchase agreement.

ARTICLE II
PURPOSE OF ACT

The overriding goal of this Act is to provide policies and practices to ensure this Enterprise Capital Project and future Enterprise Capital Projects are properly managed and completed on time and on budget.

Objectives of Act:

1. To implement policies and practices to enhance project management for Enterprise Capital Projects;

2. To ensure that funds earmarked for Enterprise Capital Projects are only spent on the specific project identified;

3. To ensure that the issuance of Enterprise Revenue Bonds contain bond covenants that prohibit use of the funds for other capital projects or any General Fund use;

4. To ensure that any Enterprise Capital Funds that are realized efficiencies and savings are moved to an appropriate reserve account;

5. To ensure that future funds received for a multiyear Enterprise Capital Project including state and federal grants be reviewed and, if justified, applied to rate reductions;

6. Establish an oversight board to review the implementation and management of Enterprise Capital projects; and

7. To improve communications between the Council and City Enterprise staff on the progress of all large Enterprise capital projects.

Accomplishing the above stated objectives will provide effective fiscal management of Enterprise Capital Projects protecting the best interests of the ratepayers.

ARTICLE III
ENTERPRISE REVENUE BOND CONVENANTS

This Act will require the City, through its Bond Counsel and Underwriters to include specific covenants in the bond issuance that specifically identify the capital projects to be completed and financed by the bond funds. Furthermore, there shall be a covenant that specifically prohibits use of bond proceeds for any other Enterprise Capital Project or for any General Fund use.

ARTICLE IV
APPLICATION OF UNUSED FUNDS

In the event an approved Enterprise Capital Project finishes under budget at the conclusion of the project the City shall be deposited into a Dedicated Reserve from Efficiency and Savings pursuant to the Reserve Management Act Article VIII section 4.This provision provides that at the end of each fiscal year, any savings not required for compliance with established reserve policies will be transferred into this reserve fund. At

the end of a period established by the Enterprise Department Director, with the approval of the City Manager, funds accumulated in this reserve that are not used for capital improvements will be used to reduce future rates.

ARTICLE V
APPLICATION OF FUTURE CAPITAL PROJECT FUNDING

In the event an approved long term (over one year) Enterprise Capital Project receives additional funding including but not limited to State and Federal grant funds (not requiring a local match), below market interest rate loans or any other subsidy that can be legally applied to the approved Enterprise Capital Project, then the City shall re-evaluate the rate structure and consider appropriate and legal rate reductions based upon a comprehensive financial and legal review.

ARTICLE VI
AUTHORITY TO SPEND FUNDS

This Act shall require identification of specific Enterprise Capital items in excess of $1 million (e.g. repairing a well, replacing underground pipe, construction of a water tank) before funds can be expended. Prior to expending funds the Enterprise Department Director shall submit a line item request for authorization to fund an Enterprise Capital project that includes the specific capital item, the location that the capital item will be constructed, the price of the capital item and the source of funding for the item. A majority vote of the Council shall approve the expenditures. On Enterprise capital expenditures funded by Enterprise Revenue Bonds, a super majority vote of the Council is required to issue bonds pursuant to City Charter Section 1222.

ARTICLE VII
DEBT COVERAGE SERVICE RATIO

The Debt Coverage Service Ratio ("DCSR") should be set at a minimum of 1.5 but no greater than 2.0 on future debt issuances on enterprise projects. The amount of debt should be based on the ability to sustain the minimum DCSR based on an adopted rate plan. The ability to maintain the DCSR will not be predicated on future rate increases beyond the adopted plan.

ARTICLE VIII
OVERSIGHT BOARD

The City shall establish an Enterprise Capital Project Oversight Board. The purpose of this board is to provide third party oversight of any Enterprise Capital Project in excess

of $20 million. The board shall serve in an advisory capacity. The board shall be composed of nine members from the public. They shall serve a term of two years. Each Council member shall select one member and the Mayor shall select two members to the board. Board members shall have private sector experience in building and managing large construction projects including general contractors, engineers, architects, and related fields. Current City employees are not eligible to serve on this board. Public members who have any financial interest, direct or indirect, in an Enterprise Capital Project the Oversight Board would potentially oversee are ineligible to serve on the Oversight Board. The Council shall select a Councilmember or his/her designee to serve as a non-voting member of the Committee.

The board shall select a Chair and Vice Chair at their first meeting. All meetings will be public and subject to the provisions of the Brown Act. The committee will meet twice a year or as needed. The City Manager or his/her designee, City Attorney or his/her designee, and the Enterprise Department Director or his/her designee shall attend all meetings. Once a year, during the annual budget hearings the Chair of this Oversight Board shall provide a written report to the Council that includes their findings and any recommendations.

The Oversight Board's duties shall include, but not be limited to:

(a) Reviewing all change orders and reporting on their legitimacy to the Council before said change orders are approved;

(b) Critiquing all individual requests for funding authorization pursuant to Article VI and providing commentary to the Council; and

(c) Critiquing all semi-annual progress reports provided pursuant to Article X and providing commentary to the Council.

ARTICLE IX
PEER REVIEW

In addition to the Oversight Board, all proposed enterprise projects will be subject to a "peer review" process prior to the release of any RFQ/RFP.

ARTICLE X
ENTERPRISE CAPITAL PROJECT REPORTS TO COUNCIL

This Act shall require the City Manager to provide semi-annual progress reports to the Council on any Enterprise Capital Project (as defined in this Act). These reports shall be delivered at a regularly scheduled public Council meeting. These reports shall include a specific line item review of expenditures to date showing items under and over budget, percentage of project completed (pursuant to projected project timeline), any change orders completed, and summary of the overall project activity.

ARTICLE XI
ONE YEAR REVIEW

One year from the adoption of this Act, the Council shall, at a regularly scheduled meeting, review the implementation and practice of this Act and, if necessary, amend the Act to reflect required changes.

ARTICLE XII
TRANSPARENCY

The City is committed to full and complete financial disclosure, and to cooperating fully with rating agencies, institutional and individual investors, City Departments and agencies, other levels of government, and the general public to share clear, comprehensible, and accurate financial information. All relevant financial information and reports related to bond issuance shall, consistent with applicable law, will be available for public viewing at the City's website via a link to the Electronic Municipal Market Access (EMMA) site maintained by the MSRB.

ARTICLE XIII
EFFECTIVE DATE

This resolution shall take effect upon its final adoption by the City Council.

March 3, 2015

RECEIVED

Council Adoption: 2/26/2015
Mayor Approval:
Mayor Veto:
Override Request:

TO: MAYOR ASHLEY SWEARENGIN

2015 MAR 10 AM 7 58

FROM: YVONNE SPENCE, CMC
City Clerk

CITY CLERK, FRESNO CA

SUBJECT: TRANSMITTAL OF COUNCIL ACTION FOR APPROVAL OR VETO

At the Council meeting of 2/26/15, Council adopted the attached Resolution No. 2015-034 entitled **Adopting the Enterprise Capital Management and Citizen Oversight Act,** Item number **11:00 A.M., File ID#15-166,** by the following vote:

Ayes	:	Brand, Brandau, Caprioglio, Olivier, Quintero, Soria, Baines
Noes	:	None
Absent	:	None
Abstain	:	None

Please indicate either your formal approval or veto by completing the following sections and executing and dating your action. Please file the completed memo with the Clerk's office on or before March 9, 2015. In computing the ten day period required by Charter, the first day has been excluded and the tenth day has been included unless the 10th day is a Saturday, Sunday, or holiday, in which case it has also been excluded. Failure to file this memo with the Clerk's office within the required time limit shall constitute approval of the ordinance, resolution or action, and it shall take effect without the Mayor's signed approval.

Thank you.

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APPROVED/NO RETURN: _____

VETOED for the following reasons: (Written objections are required by Charter; attach additional sheets if necessary.)

_____

_____

_____ Date: _____
Ashley Swearengin, Mayor

COUNCIL OVERRIDE ACTION: Date: _____

Ayes	:
Noes	:
Absent	:
Abstain	:

SCANNED