Written materials relating to an item on this agenda that are distributed to the legislative bodies within 72 hours before the item is to be considered at its regularly scheduled meeting will be made available for public inspection at the City Clerk's Office, 300 West Third Street 4th Floor during customary business hours. Agenda reports are also on the City of Oxnard web site at www.oxnard.gov.

CITY OF OXNARD CALIFORNIA

AMENDED AGENDA

Info/consent items K-8 and K-9; Report item M-1 were amended.

AGENDA
OXNARD CITY COUNCIL
OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY
OXNARD FINANCING AUTHORITY
OXNARD HOUSING AUTHORITY

Meeting Location: Council Chambers, 305 West Third Street

February 18, 2025

Closed Session - 4:30 PM

Regular Meeting - 6:00 PM

Zoom details to call-in for public comment during a meeting:

1. Dial Phone Number: (888) 475-4499
2. Enter Meeting ID: 810 0641 3064
3. Passcode: 613291

If you wish to speak during public comments or a particular item on the agenda, please sign-on by following the zoom call-in steps listed above. Once the presiding officer calls for public speakers, press *9 to raise your hand to inform the City Clerk you would like to speak during the public speaking section for that particular item on the agenda, while in the zoom waiting room. Press *6 when asked to unmute. Listen to the instructions provided virtually on the phone while on hold in the zoom waiting room. Please note that there is a slight time delay when viewing the meeting via television.

IN ACCORDANCE WITH ASSEMBLY BILL 2449, MEMBERS OF THE LEGISLATIVE BODY MAY MEET IN-PERSON OR REMOTELY. TO PARTICIPATE REMOTELY VISIT WWW.OXNARD.GOV.

To find out how you may provide public comment, please refer to the instructions below or at **www.https://www.oxnard.org/city-meetings/**.

The public may view the meeting from home on Spectrum channel 10, Frontier channel 35, or YouTube at Youtube.com/oxnardnews. Video recordings of the meeting are typically available online following the meeting at the City's website at www.oxnard.org/city-meetings.

*Please see the link for the Measure M pre-recorded presentation video for each item listed on this agenda.

YOU MAY PARTICIPATE IN THE MEETING IN THE FOLLOWING WAYS:

1. ATTEND THE MEETING AT THE LOCATION LISTED ABOVE: Submit a speaker card to the City Clerk.

2. EMAIL COMMENTS OR SIGN UP TO SPEAK REMOTELY BEFORE THE MEETING

   a. Submit a request to speak remotely by 3 p.m. on the day of the meeting by using the form available at **www.oxnard.org/citymeetings**.
   b. Submit an email to **cityclerk@oxnard.org** by 3 p.m. on the day of the meeting (indicate the agenda item number in the subject line). All email correspondence will be forwarded to the legislative body prior to the start of the meeting and made part of the legislative record.
   c. Contact the City Clerk's Office at (805) 385-7803 to submit your request.

In compliance with the Americans with Disabilities Act, if you require special assistance to participate in a meeting, please contact the City Clerk's Office at 385-7803. Notice at least 72 hours prior to the meeting will enable the City to reasonably arrange for your accessibility to the meeting.

Agenda Item Time Estimates include: (Minutes for Presentation + Council Discussion + Public Comment)

3. PROVIDE PUBLIC COMMENT REMOTELY DURING THE MEETING

   a. Follow Zoom details listed above.
   b. Public comments on agenda items will be taken following the announcement of the item. After the item is announced, members of the public may register or otherwise be recognized for the purpose of providing public comment.

Please review the Zoom instructions on the registration page to help ensure there are no technical difficulties during your comments and help you understand public comment procedures using Zoom. Detailed participation instructions can be found at www.oxnard.org/city-meetings.

In the event of a disruption which prevents a legislative body of the City of Oxnard from broadcasting a meeting using a call-in option or internet-based service option, or in the event of a disruption within the City's control which prevents members of the public from offering public comment using the call-in option or internet-based service option, the legislative body shall take no further action on items appearing on a meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. However, if any of the broadcast options are disrupted, but any of the other broadcast options is still available to the public, the legislative body may take further action on items appearing on a meeting agenda without waiting for the disrupted broadcast option(s) to be restored.

A. ROLL CALL, POSTING OF AGENDA
THE FOLLOWING LEGISLATIVE BODIES ARE MEETING: City Council
CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS
At this time, a person may address the legislative body only on matters appearing on the closed session agenda. The presiding officer shall limit public comments to three minutes.

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION (Government Code Section
54956.9(d)(1))
Name of case: *Moving Oxnard Forward, Inc. and Aaron Starr v. City of Oxnard*
Ventura County Superior Court, Case No. 2023CUWM011768
Legislative Body: City Council

2. CONFERENCE WITH LEGAL COUNSEL — EXISTING LITIGATION (Government Code Section
54956.9(d)(1))
Name of case: *Justin Martinez v. City of Oxnard*
Ventura County Superior Court, Case No. 56-2020-00545134-CU-PO-VTA
Legislative Body: City Council

3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code Section 54956.9(d)(2))
Based on existing facts and circumstances, there is significant exposure to litigation against the City in one
potential case.
Legislative Body: City Council

D. OPENING CEREMONIES (6:00 PM)
Pledge of allegiance to the flag of the United States.

E. CEREMONIAL ITEMS

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

A person may address the legislative body only on matters not appearing on the agenda and within the subject matter jurisdiction of the legislative body. Speaker requests shall be submitted as set forth on the first page of this agenda. Speakers are limited to three minutes. After 30 minutes, if all speakers have not had the opportunity to speak, the remaining speakers will be given an opportunity to speak prior to adjournment of the meeting. The legislative body cannot enter into a detailed discussion or take action on any items presented during public comments at this time. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion. Persons wishing to speak on public hearing items should do so at the time of the hearing.

G. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

The City Manager/Executive Director/Secretary shall report on items of interest to the legislative body occurring since the last meeting. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. Such items may only be referred to the City Manager/Executive Director/Secretary for administrative action or scheduled on a subsequent agenda for discussion.

H. CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY/FINANCING AUTHORITY BUSINESS/COMMITTEE REPORTS

At this time, a member of the legislative body may make a brief announcement, or make a brief report on his or her activities. Further, members of the legislative body may request to schedule consideration of whether to place an item on a future agenda. The legislative body cannot enter into detailed discussion or take action on any item presented during this report. The member's report shall not exceed three minutes, unless additional time is granted by the presiding officer.

I. REVIEW OF INFORMATION/CONSENT AGENDA

The members of the legislative body will consider whether to remove Information/Consent Agenda items for discussion later during the meeting.

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

At this time, a person may address the legislative body only on matters appearing on the information/consent agenda. The presiding officer shall limit public comments to three minutes.

K. INFORMATION/CONSENT AGENDA

1. City Clerk Department

SUBJECT: Approval of Minutes.

RECOMMENDATION: That the City Council approve the regular minutes of January 21, 2025 and February 4, 2025.

Legislative Body: City Council

Contact: Luly Lopez, (805) 385-7805

2. Public Works Department

SUBJECT: Public Project Agreement 32500403 with Jaynes Brothers Construction, Inc. for Citywide Playground Replacement Project - Ololkoy Beach Park (Rebid), Specification No. PW 25-49R.

RECOMMENDATION: That the City Council approve and authorize:

1. A total of $489,759.00 in Project funds for the Citywide Playground Replacement Project -

Ololkoy Beach Park (Rebid), Specification No. PW 25-49R;
2. The Mayor to execute an Agreement with Jaynes Brothers Construction, Inc. in the amount of $408,133.00 and a Project contingency amount of $40,813.00 (~10%) with Jaynes Brothers Construction, Inc. for a total not to exceed value of $448,946.00 for the Project; and
3. A Project allocation amount of $40,813.00 (~10%) for engineering, inspection, survey and project management for the Project.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)
Legislative Body: City Council
Contact: Michael Wolfe, (805) 385-8055

3. Public Works Department
SUBJECT: Additional Project Contingency Authority to Agreement 32500074 with LDP Associates, Inc. for the Replacement of the City's Data Center Cooling System.
RECOMMENDATION:
That the City Council approve and authorize an increase of $50,000 in project contingency authority to an agreement with LDP Associates, Inc. for a new not-to-exceed value of $351,663, for use with the Data Center Cooling System Replacement Project IT 24-134.

(This item did not originate in Committee as it is a continuation of an item previously approved by the City Council.)
Legislative Body: City Council
Contact: Michael Wolfe, (805) 385-8055

4. Public Works Department
SUBJECT: Public Project Agreement 32500393 with CSI Services for Central Park Fountain Renovation Project, Specification No. SD 25-23.
RECOMMENDATION: That the City Council approve and authorize:

1. A total of $723,511.00 in Project funds for the Central Park Fountain Renovation Project, Specification No. SD 25-23;
2. The Mayor to Execute an Agreement with CSI Services in the amount of $602,925.00 for the Project and approve a Project contingency amount of $60,293.00 (~10%) with CSI Services for a total not to exceed value of $663,218.00 for the Project;
3. A Project allocation amount of $60,293.00 (~10%) for engineering, inspection, survey and project management for the Project; and
4. A budget appropriation in the amount of $268,511 from the available fund balance in the Community Facilities District (CFD) 5 Fund (120, sub-fund 6050) to the Central Park Fountain Control Room Renovation Project (C2012) and corresponding Capital Outlay Fund (301) transfer in/appropriation in the same amount.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)
Legislative Body: City Council
Contact: Michael Wolfe, (805) 385-8055

5. Public Works Department
SUBJECT: Multiple Agreements for On-Call Geotechnical Engineering/Environmental Material Testing and Inspection Services Professional Engineering Services.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute the following four Agreements, each with an initial term of one year, from February 19, 2025, to February 18, 2026, with options for exercising four consecutive one-year period extensions ending February 18, 2030, for on-call professional engineering geotechnical services:

1. Agreement 32500365 with Earth Systems Pacific for a total amount not to exceed $1,000,000;
2. Agreement 32500368 with Twining, Inc. for a total amount not to exceed $1,000,000;
3. Agreement 32500375 with Geocon West, Inc. for a total amount not to exceed $1,000,000; and
4. Agreement 32500379 with Shannon & Wilson, Inc. for a total amount not to exceed $1,000,000.

(Public Works and Transportation Committee approved 3-0 on January 28, 2025)
Legislative Body: City Council
Contact: Michael Wolfe, (805) 385-8055

6. Public Works Department
SUBJECT: Multiple Agreements for On-Call Architectural Design Professional Engineering Services.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute the following Agreements, each with an initial term of two years from February 19, 2025, to February 18, 2027, with an option for three consecutive one-year period extensions ending February 18, 2030, for on-call professional engineering services for architectural design:

1. Agreement 32500354 with Black, O'Dowd and Associates, Inc. DBA BOA Architecture for a total amount not to exceed $750,000;
2. Agreement 32500359 with Jeff B. Zook, A Professional Architectural Corporation DBA Coastal Architects for a total amount not to exceed $750,000;
3. Agreement 32500364 with Roesling Nakamura Terada Architects, Inc. for a total amount not to exceed $750,000; and
4. Agreement 32500361 with Wallace Group, A California Corporation for a total amount not to exceed $750,000.

(Public Works and Transportation Committee approved 3-0 on January 28, 2025)
Legislative Body: City Council
Contact: Michael Wolfe, (805) 385-8055

7. Human Resources Department
SUBJECT: A Resolution Adding a CalPERS Medical Plan for NonPERS Elected Officials.
RECOMMENDATION: That the City Council adopt a resolution authorizing the City to add a medical plan for NonPERS Elected Officials.

(This item did not originate in Committee)
Legislative Body: City Council
Contact: Steve Naveau, (805) 385-7947

8. Housing Department

SUBJECT: Community Development Block Grant (CDBG) Loan Agreement for Casa Aliento.
RECOMMENDATION: That the City Council adopt a resolution authorizing the Housing Director or Designee to execute a $792,999 CDBG Loan Agreement (32500402), and any and all related documents thereto, with Casa Aliento LP for the rehabilitation and conversion of an existing motel into 70 Permanent Supportive Housing Units located at 1245 N. Oxnard Boulevard.

(The Community Services, Public Safety, Housing & Development Committee approved 3-0 on January 28, 2025.)
Legislative Body: City Council
Contact: Brenda Lopez, (805) 385-8092

9. Housing Department
SUBJECT: CDBG and In-Lieu Loan Agreement for Dolores Huerta Gardens Apartments, a 58-Unit Affordable Rental Project located at 2161 Etting Road.
RECOMMENDATION: That the City Council:

1. Adopt a resolution authorizing the Housing Director or Designee to execute a $268,074 CDBG Loan Agreement (32500404) and a $631,900 In-Lieu Loan Agreement (32500406), and any and all related documents thereto, with Etting Road LLC for the construction of fifty-eight affordable rental units located at 2161 Etting Road; and

2. Approve and authorize a budget appropriation of $631,900 from the Affordable Housing In-Lieu Fees Fund to support the $631,900 In-Lieu Loan Agreement.

(As of the date of this City Council agenda being posted there is not yet an outcome from the Februrary 11, 2025 Community Services, Public Safety, Housing and Development Committee)
Legislative Body: City Council
Contact: Brenda Lopez, (805) 385-8092

L. PUBLIC HEARINGS

1. Housing Department
SUBJECT: Fiscal Year 2020-2021 Annual Action Plan Amendment - Community Development Block Grant CARES Act. (10 minutes)
RECOMMENDATION: That the City Council:

1. Conduct a public hearing regarding the fiscal year 2020-2021 Annual Action Plan Amendment;

2. Approve the fiscal year 2020-2021 Annual Action Plan Amendment for the CARES Act reallocations;

3. Authorize the City Manager, and his designees, to incorporate the amended grant allocations into the 2020-2021 Annual Action Plan Amendment for the CARES Act, and allow adjustments within ten percent of the grant allocation or $200,000, whichever is greater;

4. Authorize the City Manager, and his designees, to execute the required documents to submit the 2020-2021 Annual Action Plan Amendment to the United States Department of Housing and Urban Development; and,

5. Authorize the City Manager, and his designees, to execute all of the agreements necessary for the implementation of the 2020-2021 Annual Action Plan Amendment.

(This is a Public Hearing, therefore this item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/mbATWRWzL4E
Legislative Body: City Council
Contact: Brenda Lopez, (805) 385-8092

M. REPORTS

1. Housing Department
SUBJECT: Second Amendment and Extension of the Agreement with the County of Ventura and local hotel operators in support of the Encampment Resolution Funding Program. (10 minutes)
RECOMMENDATION: That the City Council:

1. Approve and authorize the Mayor to execute a Second Amendment to Agreement No. 32400434 with the County of Ventura for partnership in delivery of encampment response outreach and case management services via the Ventura County Health Care Agency in the amount of $250,000 for a total agreement amount not to exceed $1,558,614.34, and to extend the term of the agreement to August 31, 2025;

2. Authorize the City Manager, or designee, to negotiate and execute agreements with local hotel operators through August 31, 2025 to offer non-congregate shelter.

(This item did not originate in Committee because it is a continuation of an item previously approved by City Council.)
Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/2wV7xKHPq7I
Legislative Body: City Council
Contact: Brenda Lopez, (805) 385-8092

2. Cultural & Community Services Department
SUBJECT: Amendment to Extend the Operating Agreement for the Oxnard Performing Arts & Convention Center Auditorium and Meeting Rooms. (10 minutes)
RECOMMENDATION: That the City Council authorize the Mayor to execute the facility management agreement between the City and Sterling Venue Ventures (A-8209 and (A-8210) for:

1. A five (5) year amendment extension for the operation, maintenance, and management of the Oxnard Performing Arts and Convention Center Auditorium and Meeting Rooms.

(This item did not originate in Committee)
Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/n3SoEPOCKEw
Legislative Body: City Council
Contact: Terrel Harrison, (805) 385-7994

3. Finance Department

SUBJECT: FY 2024-25 Mid-Year Budget. (15 minutes)
RECOMMENDATION: That the City Council:

1. Receive an update on the FY 2024-25 revenue and expenditure projections for major funds; and
2. Approve budget amendments to the General Fund (101), Street Maintenance Infrastructure Use Fee Fund (105), Special Districts Fund (120), Transportation Development Act Fund (212), Capital Outlay Fund (301), Developer & Other Deposits Fund (541), Environmental Resources Operating Fund (631), Public Liability and Property Insurance Fund (701), and the Facilities Maintenance Fund (735) as explained in this report.

(This item did not originate in Committee)
Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/5G_rb22P0TI
Legislative Body: City Council
Contact: Javier Chagoyen-Lazaro, (805) 200-5400

4. Human Resources Department
SUBJECT: Memorandum of Understanding - Oxnard Public Safety Managers Association. (10 minutes)
RECOMMENDATION: That the City Council of the City of Oxnard adopt a Resolution approving the attached tentative agreement between the City of Oxnard and the Oxnard Public Safety Managers Association (OPSMA) that are proposed to be integrated with the terms of the existing Memorandum of Understanding (MOU) between the City and OPSMA. The integrated document shall be the successor MOU for the term July 1, 2024 through June 30, 2027.

(This item did not originate in Committee)
Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/giD9fekDQVA
Legislative Body: City Council
Contact: Steve Naveau, (805) 385-7947

5. City Attorney Department
SUBJECT: Implementation of Specific Provisions of the Court of Appeal's Decision Regarding the City Treasuer
RECOMMENDATION: That the City Council:

Approve the first reading by title only and waive further reading of an ordinance titled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING SPECIFIC PROVISIONS OF THE OXNARD CITY CODE TO TRANSFER THE DUTIES RELATING TO THE COLLECTION OF FEES AND TAXES FROM THE CITY TREASURER TO THE POLICE CHIEF, AND MODIFY THE PROCEDURE FOR THE PAYMENT OF DEMANDS, WARRANTS AND CHECKS SO THAT CERTAIN DUTIES HELD BY THE CITY TREASURER ARE TRANSFERRED TO THE ASSISTANT CITY TREASURER

or

Alternatively, although not recommended by City staff, direct staff to return with the necessary proposed ordinance and resolution to reorganize and reinstate the duties of the City Treasurer, so the

person in that position will serve as the administrative head of staff now associated with the separate Division of Billing and Licensing and as a department head.

(This item did not originate in Committee)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/iLBNrcxJ9GA
Legislative Body: City Council
Contact: Stephen Fischer, (805) 385-7483

N. ADJOURNMENT

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.1

DATE: February 18, 2025

TO: City Council

FROM: Luly Lopez, City Clerk, (805) 385-7805, luly.lopez@oxnard.org

SUBJECT: Approval of Minutes.

RECOMMENDATION

That the City Council approve the regular minutes of January 21, 2025 and February 4, 2025.

BACKGROUND

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Luly Lopez, City Clerk

ATTACHMENTS
1. Minutes of the Regular City Council meeting of January 21, 2025
2. Minutes of the Regular City Council meeting of February 4, 2025

AGENDA
OXNARD CITY COUNCIL
January 21, 2025

A. ROLL CALL, POSTING OF AGENDA

At 5:30 p.m., Chair Luis Mc Arthur presided and called to order the regular meeting of the Oxnard City Council in the City Hall Council Chambers at 305 West Third Street, Oxnard, California. Councilmembers Gabriela Basua; Luis Mc Arthur; Bert E. Perello; Michaela Perez; Gabriela Rodriguez; Aaron Starr and Gabriel Teran were present. The City Clerk stated that the agenda was posted on Thursday, January 9, 2025 at the Library, City Hall kiosk, City Administrative Offices and on the website.

CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

No public comments were received.

At 5:32 p.m., the City Council recessed into a closed session.

C. CLOSED SESSION (5:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION (Government Code Section 54956.9(d)(1))
   Name of case: Jeff Muzzin v. City of Oxnard
   Workers' Compensation Case No.: ADJ14304792
   Legislative Body: City Council

D. OPENING CEREMONIES (6:00 PM)

At 6:02 p.m. Chair Luis Mc Arthur presided and called to order the regular meeting of the Oxnard City Council in the City Hall Council Chambers at 305 West Third Street, Oxnard, California. Councilmembers Luis Mc Arthur; Bert E. Perello; Michaela Perez; Gabriela Rodriguez; Aaron Starr; Gabriel Teran and Gabriela Basua were present.

Stephen Fischer, City Attorney announced that no reportable actions resulted from the closed session.

The meeting opened with the pledge of allegiance to the flag of the United States led by Karina Cortes, followed by a moment of silence in honor of Simi Valley Mayor Fred Thomas who passed away.

Staff members present were Alexander Nguyen, City Manager; Ashley Golden, Assistant City Manager; Stephen Fischer, City Attorney; Michael Wolfe, Public Works Director; Javier Chagoyen-Lázaro, Chief Financial Officer; Jennifer Hiraoka, Senior Manager, Internal Controls; Brenda Lopez, Interim Housing Director; and Lourdes A. López, City Clerk.

E. CEREMONIAL ITEMS

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Mark Spellman (security issues in Downtown); Lang Martinez (homelessness); Lucy Cartagena (sober living home in La Colonia); Angela Whitecomb (downtown issues); Pattie Braga (Ventura County Leadership Academy); Ozzie Lopez (downtown issues); Adam Vega (community outreach); Abel Velasquez (crime victims); Vanessa Valdez (immigration); Maria Elena Saldana (role models); Greg Runyon (various issues); Lorenzo Castillo (security issues in downtown); Jason Mc Comb (sober living home); Kelly Lank (supports brother); caller ending 9809 (sober living home); Doug Partello (various issues); Roy Ford (sober living home); Phillip Molina (restoring his role); Helena Marino (recent fire); Jesed Pando (sober living home);

The Mayor read written comments received from: Heather Schmidt and Carol Mechanick.

G. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

Julie Estrada with Cultural and Community Services described the MLK mural which is displayed in the Council Chambers and includes the 6 principles of nonviolence.

H. CITY COUNCIL/HOUSING AUTHORITY/SUCCESSOR AGENCY/FINANCING AUTHORITY BUSINESS/COMMITTEE REPORTS

The members of the Council provided brief announcements regarding their various activities.

Request for future agenda items:
1. Explore developing a narrowly tailored ordinance that bans violent felons from operating group homes and sober living facilities (Councilman Starr)
2. Propose that the City Council conduct a workshop with the City Treasurer to restore his duties as required under State law (Councilman Starr)
3. How we can better regulate nitrous oxide (Mayor Pro Tem Teran)

I. REVIEW OF INFORMATION/CONSENT AGENDA

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

Pat Brown (restroom in downtown).

K. INFORMATION/CONSENT AGENDA

1. City Clerk Department
SUBJECT: Minutes of the regular City Council meeting of December 17, 2024; and Minutes of the special City Council meeting of December 30, 2024.
RECOMMENDATION: That the City Council approve the minutes.

2. Finance Department
SUBJECT: Update on the Financial Corrective Action Plan (FCAP) For Closing Past Audit Findings.
RECOMMENDATION: That the City Council receive and file the update on the Financial Corrective Action Plan (FCAP) for closing past audit findings.
(Finance and Governance Committee approved 3-0 on December 10, 2024)

3. Public Works Department
SUBJECT: Public Project Agreement 32500302 with Jaynes Brothers Construction, Inc. for the Citywide Playground Replacement Project - Carty Park Specification No. PW 24-125.
RECOMMENDATION: That the City Council approve and authorize:

1. A total of $203,063.30 in Project funds for the Citywide Playground Replacement Project - Carty Park Specification No. PW 24-125;
2. The Mayor to Execute an Agreement with Jaynes Brothers Construction, Inc. in the amount of $169,219.30 and a Project contingency amount of $16,922 (~10%) for a total not to exceed value of $186,141.30 for the Project; and
3. A Project allocation amount of $16,922 (~10%) for engineering, inspection, survey and project management for the Project.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

4. Public Works Department
SUBJECT: Trade Service Agreement 32500347 with Premier Property Preservation, LLC for Janitorial Services at City Park Restrooms.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute an Agreement with Premier Property Preservation, LLC for an initial term of three years from February 1, 2025, to January 31, 2028, with the option for two one-year extensions ending January 31, 2030, for a total not to exceed amount of $1,860,000 for janitorial services at various City park restrooms.

(This item did not originate in Committee)

It was moved by Councilwoman Rodriguez, seconded by Councilwoman Perez, to approve the Information/Consent item as presented. VOTE: Perello, Perez, Rodriguez, Starr, Basua, Mc Arthur, and Teran voted in favor; the motion passed 7-0.

L. PUBLIC HEARINGS

1. Housing Department
SUBJECT: Second Substantial Amendment to the 2023-24 Annual Action Plan. (10 minutes)
RECOMMENDATION: That the City Council:

1. Conduct a public hearing and receive comments related to the Substantial Amendment to the Fiscal Year 2023-2024 Annual Action Plan;
2. Approve a Substantial Amendment to the 2023-2024 Annual Action Plan, reallocating Community Development Block Grant and HOME Investment Partnership Program funds;
3. Authorize the City Manager and his designees, to execute the required applications, certifications, and other pertinent documents for the submission of the Amendment to the United States Department of Housing and Urban Development;
4. Authorize the City Manager and his designees, to execute the appropriate agreements with subrecipients, and to adjust any of the funding activities, not to exceed ten percent, if the programs require more or less funding to meet their objectives; and,
5. Authorize the City Manager and his designees, to appropriate and recognize grant revenue, for HOME Investment Partnership Program (Fund 202) and Community Development Block

Grant (Fund 201) funds to the proposed activities identified in this staff report.

(The Community Services, Public Safety, Housing and Development Committee approved 3-0 on December 10, 2024.)
The City Clerk announced the affidavit of publication and stated that no written communications were received.

Councilmembers reported that no ex parte communications were received on this item.

Ashley Golden, Assistant City Manager and Brenda Lopez, Interim Housing Director, were available to answer questions.

Mayor Mc Arthur opened the public testimony portion of the public hearing. Public comments were received from Barbara Macri Ortiz (Dolores Huerta project).

Assistant City Manager Golden presented an email that was submitted by Larry Stein. Mayor Mc Arthur read the written comment from Larry Stein which is being incorporated into the record.

With no further requests to speak and without objection, the Council approved closing the public testimony portion of the public hearing. Discussion ensued among the Council and staff.

It was moved by Councilwoman Perez, seconded by Councilmember Perello, to approve the recommended actions as presented. VOTE: Perez, Rodriguez, Starr, Teran, Basua, Mc Arthur, and Perello voted in favor; the motion passed 7-0.

M. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Mc Arthur adjourned the meeting at 8:33 p.m.

LOURDES A. LÓPEZ City Clerk	LUIS MC ARTHUR Mayor

AGENDA
OXNARD CITY COUNCIL
February 4, 2025

A. ROLL CALL, POSTING OF AGENDA

At 4:39 p.m., Chair Luis Mc Arthur presided and called to order the regular meeting of the Oxnard City Council convened in the Council Chambers at 305 West Third Street, Oxnard, California concurrently with the Oxnard Housing Authority Board of Commissioners. Councilmembers Gabriela Basua; Luis Mc Arthur; Bert E. Perello; Michaela Perez; Gabriela Rodriguez; Aaron Starr and Gabriel Teran were present. The City Clerk stated that the agenda was posted on Thursday, January 23, 2025 at the Library, City Hall kiosk, City Administrative Offices and on the website.

CONSIDERATION OF TELECONFERENCE PARTICIPATION PURSUANT TO ASSEMBLY BILL 2449

B. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

No public comments were received.

At 4:41 p.m., the City Council recessed into a closed session.

C. CLOSED SESSION (4:30 PM)

1. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION (Government Code section 54956.9(d)(2))
Based on existing facts and circumstances, there is significant exposure to litigation against the City and Housing Authority in one potential case.
Legislative Body: City Council and Oxnard Housing Authority Board of Commissioners

2. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION (Government Code section 54956.9(d)(1)).
Name of case: *Dean Basler v. City of Oxnard*
Ventura County Superior Court, Case No. 56-2019-00537598-CU-PA-VTA
Legislative Body: City Council

D. OPENING CEREMONIES (6:00 PM)

At 6:17 p.m. Chair Luis Mc Arthur presided and called to order the regular meeting of the Oxnard City Council in the City Hall Council Chambers at 305 West Third Street, Oxnard, California. Councilmembers Luis Mc Arthur; Bert E. Perello; Michaela Perez; Gabriela Rodriguez; Aaron Starr; Gabriel Teran and Gabriela Basua were present. The City Clerk stated that the agenda was posted on Thursday, January 23, 2025 at the Library, City Hall kiosk, City Administrative Offices and on the website.

Stephen Fischer, City Attorney announced that no reportable actions resulted from the closed session.

The meeting opened with the pledge of allegiance to the flag of the United States led by Adilene Avila, followed by a moment of silence in remembrance of the tragic aircraft accidents in Washington DC and in Philadelphia.

Staff members present were Alexander Nguyen, City Manager; Eric Sonstegard, Assistant City Manager; Stephen Fischer, City Attorney; Michael Wolfe, Public Works Director; Javier Chagoyen-Lázaro, Chief Financial Officer; Brenda Lopez, Interim Housing Director; and Lourdes A. López, City Clerk.

E. CEREMONIAL ITEMS

1. SUBJECT: Presentation of **Resolution No. 15,845** Commending Clark Owens for Eight Years of Exemplary Service as a Senior Services Commissioner.

   Mayor Mc Arthur read **Resolution No. 15,845** and presented it to Clark Owens, who followed with a few words. Marisue Eastlake, Recreation Supervisor congratulated Commissioner Owens and thanked him for the years of dedicated service to the City of Oxnard Senior Services Commission.

   It was moved by Mayor Mc Arthur, seconded by Councilwoman Rodriguez, to approve the resolution as presented. VOTE: Perello, Perez, Rodriguez, Starr, Basua, Mc Arthur, and Teran voted in favor; the motion passed 7-0.

2. SUBJECT: Presentation of a Proclamation Designating the Month of February, 2025 as "Black History Month."
   ACTION: Mayor Mc Arthur read the proclamation and presented to: LaRita Montgomery with the Martin Luther King, Jr. Committee of Ventura County; Dr. Martha McQueen-Legohn, President of the Alpha Kappa Alpha Sorority Oxnard/Ventura Chapter; Lekishia White, President of Ventura County Alumnae Chapter of Delta Sigma Theta Sorority, Inc.; Julia Dixon, President of the 20th Century Onyx Club; Bruce Stewart accept a proclamation on behalf of Juneteenth Committee of Ventura County, Omega Psi Phi Fraternity, Inc., Ventura County NAACP; Eric Hicks with Shrine, Illustrious Potentate; Solomon Williams of the Masons as the Worshipal Master of Unity Lodge Number 22; and Gary L. Harbour member of Kappa Alpha Psi Ventura Alumni Chapter who thanked the City Council for the recognition.

F. PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

Public comments were received from Chris Cisneros, Luis Guereca, Crystal Lopez, Jesiah Henricksen, Victor Valadez, Leo Martinez, Vanessa Valdez, Gabriel Hoffman, Amba Norton, Rosie Cervantes, Myriah Ramos, Adrienne Francisco, Elizabeth España, Veronica Hernandez Prado, Miguel Mote Hernandez, Jorge Toledano Ortiz, Alondra Mendoza Martinez, Eulalia Mendoza, Juan Carlos Diaz, Raul Lopez, Erica Valenzuela, Heather Naxu Luhn, Daisy Sampablo, Ilien Tolteca, Mayra Tamayo, Justin Tolteca, Josue Vasquez, Claudia G, Karla Alejandra, Ludi, Jazmin, Briana Becerra, Martin Cazarez, Greg Runyon, Noemi Tungu, Gerardo Santos, Javier Garnica, Carlos Munoz, Arely Garcia, Alina Ramiez, Eduardo Huerta, Vanessa Teran, Santino Mendez, Stanley Espinosa, Jason Mc Comb, Pat Brown, Marco Lopez, Julie Pena, Arthur Valenzuela, Jr., Alejandra Valencia, Alexes, Cristian, Marisol Starr,

Isabel, Nidia Bello, Caller 2981, Douglas Partello, and Mia Hernandez.

G. REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY

The City Manager stated that our Police Department does not cooperate with ICE and that it's not only a City policy but also a California State law. He provided an update on the availability of sandbags throughout the City.

H. CITY COUNCIL BUSINESS/COMMITTEE REPORTS

RECESS

At 9:28 p.m., the City Council recessed and at 9:35 p.m., the City Council reconvened.

The members of the Council provided brief announcements regarding their various activities.

Councilwoman Perez requested: 1) requested staff to consider vetting for credible resources and creating a section on the City of Oxnard's website for know your rights information that contains pertinent information to know your rights in multiple languages; 2) asked that the City Manager meet with and consider providing a grant to a local non-profit for them to provide community education to inform our residents of their rights; and 3) asked staff to work with our community organizations to review the current language of our resolution and conduct research relevant to our 2025 policies.

Councilman Starr requested: 1) staff maintain a list of open future agenda item requests that are being considered be recorded each meeting with the tentative dates; 2) anti-camping ordinance (update); 3) sober living facilities ordinance.

Mayor Mc Arthur requested: 1) update on his previous requests; 2) creating a committee to explore the differences between a Safe and Sanctuary City; 3) creating a historic district committee; 4) landscape maintenance district; lighting on Oxnard Boulevard between Gonzales and Colonia Road; 5) solar lighting at parks; and 6) signage on Oxnard Boulevard coming into our City.

At 9:58 p.m., the Council voted to continue the meeting past 10:00 p.m., and take action on the remainder of the items on the agenda.

I. REVIEW OF INFORMATION/CONSENT AGENDA

Item Nos. K-2, K-3, K-4, K-5, K-7 and K-8 were reviewed and discussed among the Council and staff.

J. PUBLIC COMMENTS ON INFORMATION/CONSENT AGENDA

No public comments were received.

K. INFORMATION/CONSENT AGENDA

1. City Clerk Department
SUBJECT: Minutes of the Oxnard City Council.
RECOMMENDATION: That the City Council approve the regular meeting minutes of Oxnard City Council for January 7, 2025.

3. Public Works Department
SUBJECT: Public Project Agreement 32500358 with At Your Service Construction & Energy, Inc., for Restroom Improvement Project - College Estates Park, Specification No. PW 23-28.
RECOMMENDATION: That the City Council approve and authorize:

1. A total of $458,160 in Project funds for the Restroom Improvement Project - College Estates Park, Specification No. PW 23-28;
2. The Mayor to Execute an Agreement with At Your Service Construction & Energy, Inc. in the amount of $381,800 and a Project contingency amount of $38,180 (10%) for a total not to exceed contract value of $419,980 for the Project; and
3. A Project allocation amount of $38,180 (10%) for engineering, inspection, survey and project management for the Project.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

4. Public Works Department
SUBJECT: Trade Service Agreement 32500297 with County First Fire, LLC (dba County Fire Protection) for Fire Extinguisher Services, Specification No. PW 25-46.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute an Agreement with County First Fire, LLC (dba County Fire Protection) for a two-year term from February 5, 2025 to February 4, 2027, for a total contract amount not to exceed $200,000 for fire extinguisher services in various City facilities, vehicles, and equipment.

(As of the date of this City Council agenda being posted, there is not yet an outcome from the January 28, 2025 Public Works and Transportation Committee. Staff is available to answer any questions.)

5. Public Works Department
SUBJECT: Public Project Agreement 32500337 with Langkilde's Fire Protection Inc. for Maintenance, Inspections and On-Call Minor Repairs for Fire Suppression Systems, Specification No. PW 25-08R.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute an Agreement with Langkilde's Fire Protection Inc. for a three-year term for a total contract amount not to exceed $700,000 for maintenance, inspections, and minor repairs to fire suppression systems at City-owned facilities.

(As of the date of this City Council agenda being posted, there is not yet an outcome

from the January 28, 2025 Public Works and Transportation Committee. Staff is available to answer any questions.)

6. Public Works Department
SUBJECT: Lease and License Agreement A-8566 with Oxnard Drainage District #1.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute a Lease and License Agreement with Oxnard Drainage District No. 1 for an initial term of five years with additional five-year extension term provisions.

(As of the date of this City Council agenda being posted, there is not yet an outcome from the January 28, 2025 Public Works and Transportation Committee. Staff is available to answer any questions.)

7. Public Works Department
SUBJECT: Multiple Agreements for On-Call Professional Engineering Services for Water, Wastewater, and Recycled Water Systems.
RECOMMENDATION: That the City Council approve and authorize the Mayor to execute the following Agreements, each with an initial term of one year from February 5, 2025, to February 4, 2026, with an option for four consecutive one-year period extensions ending February 4, 2030, for on-call professional engineering services for Water, Wastewater, and Recycled Water Systems:

1. Agreement 32500306 AECOM Technical Services, Inc. for a total amount not to exceed $1,000,000;
2. Agreement 32500307 Brown & Caldwell for a total amount not to exceed $1,000,000;
3. Agreement 32500308 Carollo Engineers, Inc. for a total not-to-exceed amount of $1,000,000;
4. Agreement 32500309 Dudek for a total amount not to exceed $1,000,000;
5. Agreement 32500310 GHD, Inc. for a total amount not to exceed $1,000,000;
6. Agreement 32500311 Kennedy Jenks Consultants, Inc., for a total amount not to exceed $1,000,000;
7. Agreement 32500326 Michael K. Nunley & Associates, Inc. DBA MKN for a total amount not to exceed $1,000,000;
8. Agreement 32500328 MNS Engineers, Inc. for a total amount not to exceed $1,000,000;
9. Agreement 32500312 Stantec Consulting Services, Inc. for a total amount not to exceed $1,000,000; and
10. Agreement 32500313 Woodard & Curran for a total amount not to exceed $1,000,000.

(As of the date of this City Council agenda being posted, there is not yet an outcome from the January 28, 2025 Public Works and Transportation Committee. Staff is available to answer any questions.)

8. Finance Department

SUBJECT: Monthly Investment Report as of December 31, 2024.
RECOMMENDATION: This is an information item for the City Council to receive and file.

(This item did not originate in Committee.)

Consent Items K.1 – K.8
It was moved by Councilmember Perello, seconded by Councilwoman Basua, to approve the Information/Consent item as presented. VOTE: Perello, Basua, Mc Arthur, Perez, Rodriguez, Starr, and Teran voted in favor; the motion passed 7-0.

L. ADJOURNMENT

There being no further business on the agenda, and without objection, Mayor Mc Arthur adjourned the meeting at 10:43 p.m.

LOURDES A. LÓPEZ
City Clerk

LUIS MC ARTHUR
Mayor

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.2

DATE: February 18, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Public Project Agreement 32500403 with Jaynes Brothers Construction, Inc. for Citywide Playground Replacement Project - Ololkoy Beach Park (Rebid), Specification No. PW 25-49R.

RECOMMENDATION

That the City Council approve and authorize:

1. A total of $489,759.00 in Project funds for the Citywide Playground Replacement Project - Ololkoy Beach Park (Rebid), Specification No. PW 25-49R;
2. The Mayor to execute an Agreement with Jaynes Brothers Construction, Inc. in the amount of $408,133.00 and a Project contingency amount of $40,813.00 (~10%) with Jaynes Brothers Construction, Inc. for a total not to exceed value of $448,946.00 for the Project; and
3. A Project allocation amount of $40,813.00 (~10%) for engineering, inspection, survey and project management for the Project.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

BACKGROUND

The existing playground equipment at Ololkoy Beach Park has reached the end of its useful life and is in need of replacement. The new playground equipment and resilient rubber surface will improve the park's amenities and enhance children's enjoyment of using the playground.

The specific work for this Project includes furnishing all necessary labor, materials, equipment, and other incidental and appurtenant Work to remove and dispose of existing playground equipment and replace it with a new playground system and resilient rubber safety surfacing. Additionally, the new playground specifications include an ADA-compliant design with ten dedicated inclusive features such as swings, spinners, and activity panels.

The work is tentatively scheduled to begin in the early calendar year 2025 and be completed within 90 working days absent any delays due to supply chain issues, unforeseen site conditions, or inclement weather.

Staff will work closely with the Oxnard Shores Neighborhood Council to keep them informed of the schedule and will also work closely with the businesses and residents directly impacted by the work to keep them informed of the project schedule. General project information will be disseminated to help keep the public informed as well.

Capital Improvement Program (CIP) Reference:

Project No. **C2239** – Playground Replacement - CIP 2025-2029 - Adopted June 4, 2024 – Page 81.

DISCUSSION

The Notice Inviting Formal Bids (NIFB) on the Project was originally published on November 7, 2024, with all bids due on November 21, 2024. The NFIB was posted on multiple platforms, including the City's website, and distributed directly to 26 potential bidders. However, all bids were rejected due to a technical error in the project specifications. The project was rebid on December 12, 2024, with all new bids due on January 16, 2025. The NFIB was again posted on multiple platforms including the City's website, and distributed directly to 33 potential bidders. The City received the following bids:

Jaynes Brothers Construction, Inc.: $408,133.00
R.E. Schultz Construction, Inc.: $408,660.00
Pacific Tide Construction: $444,391.02

The lowest bidder is Jaynes Brothers Construction, Inc. and its bid is responsive to the City's NIFB. Following this determination, procurement staff reviewed all documentation received from Jaynes Brothers Construction, Inc. and its subcontractor. Procurement staff verified possession of required currently valid licenses, reviewed the federal Occupational Safety and Health Administration (OSHA) website for safety violations, and verified registration with the California Department of Industrial Relations (DIR). Based upon the available information and research performed to date, staff believes that the contractor is capable of satisfactorily completing the project. Thus, staff recommends that the City Council award the contract for this Project to Jaynes Brothers Construction, Inc.

In addition to the project award amount of $408,133, Staff recommends authorizing $81,626 for the project, which includes $40,813 for project contingency (~10% of the contract costs) and $40,813 for the cost for engineering services and City staff (~10% of the contract cost). Engineering services include the following activities during construction: engineering, inspection, survey and project management. These recommendations bring the total estimated cost of the project to $489,759.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

The total cost for this Project is $489,759.00 which includes the construction agreement, contingency and project allocation. The Citywide Playground Replacements Project (C2239), which includes Ololkoy Beach Park, is funded by the American Rescue Plan Act (ARPA) Fund (204) / Lost Public Sector Revenue Fund (320) and the General Fund (101) and with a project budget allocation of approximately $3.99M in FY 2024-25 of which $400,000 was estimated for this project utilizing ARPA funds.

Citywide Playground Replacements Project (C2239)	**FY 2024-25 Project Budget**
ARPA Fund (204) / Lost Public Sector Revenue Fund (320)	$2.85M
General Fund (101)	$1.14M
TOTAL	**$3.99M**

The ongoing maintenance cost for the Ololkoy Park playground will have no new impact on the Parks Division's Operating budget compared to the annual operating cost for the existing park playground.

COMMITTEE OUTCOME

This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.

Prepared by: Morgan Kessler, City Engineer

ATTACHMENTS

1. 32500403_PW 25-49R Jaynes Brothers Const Inc
2. C2239_Playground Replacement_Budget Tracking

CONSTRUCTION CONTRACT FOR CITYWIDE PLAYGROUND REPLACEMENT PROJECT OLOLKOY (OXNARD) BEACH PARK (REBID), SPECIFICATION NO. PW 25-49R

BY AND BETWEEN THE CITY OF OXNARD AND JAYNES BROTHERS CONSTRUCTION, INC.

THIS CONSTRUCTION CONTRACT (the "Contract") is made and entered this _____ day of _____, 2025 ("Effective Date"), by and between the CITY OF OXNARD, a California municipal corporation ("City") and Jaynes Brothers Construction, Inc. ("Contractor"). Contractor's license number is 896407. The City and Contractor are sometimes hereinafter referred to as a "Party" and collectively referred to as the "Parties."

WHEREAS, the City requires construction of the **CITYWIDE PLAYGROUND REPLACEMENT PROJECT-OLOLKOY (OXNARD) BEACH PARK (REBID)** as more fully described in the bid package issued by the City for SPECIFICATION NO. PW 25-49R (the "Project"); and

WHEREAS, on December 12, 2024, the City issued a Notice Inviting Bids and Contract Documents to prospective bidders for the Project. In response, Contractor submitted a Bid which the City determined to be the lowest responsive and responsible bid; and

WHEREAS, Contractor is a duly organized corporation in good standing in the State of California, and represents that it has the background, knowledge, experience, expertise and resources to perform the Work and other obligations encompassed by this Contract; and

WHEREAS, the Public Works Department accepted the Contractor's Bid Proposal for the Project and directed that a written agreement for the Project be entered into with Contractor; and

WHEREAS, in light of the facts set forth above and the certifications made by Contractor as part of its Bid, the City desires to retain Contractor to perform the construction Work for the Project as set forth in this Contract and in the Contract Documents, as hereinafter described.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES HERETO AGREE AS FOLLOWS:

1. RECITALS

The Recitals set forth above are true and correct and are hereby incorporated into this Contract by this reference, as though set forth herein.

2. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE

A. Contract Documents. The Contract Documents consist of the following documents, all of which are either attached hereto as exhibits or are incorporated herein by this reference.

Said Contact Documents are complementary; what is called for in one is binding as if called for in all, and together constitutes Contractor's performance obligations:

1. Contract and its attached Exhibits, subject to the limitations in Sections 10 ("Prevailing Wage") and 24 ("Ambiguities") with respect to Exhibit "A" (Contractor's submitted Bid Proposal as accepted by the City);
2. Change Orders issued and approved by the City;
3. Bid Addenda issued by the City;
4. Notice Inviting Bids and Instructions to Bidders;
5. Special Provisions
6. General Provisions
7. Appendices
8. Plans
9. Bid Forms and attachment thereto;
10. Performance Bond;
11. Payment Bond.

3. CONTRACTOR'S OBLIGATIONS

A. Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents, and to the satisfaction of the Public Works Director or his/her designee (hereinafter the "Project Manager").

B. Until the acceptance of the Work, the Contractor shall have the responsible charge and care of the Work and of the materials to be used therein, (including materials for which partial payment has been received or materials which have been furnished by the Owner), and shall bear the risk of injury, loss or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of the Work.

C. The Contractor shall rebuild, repair, restore, and make good all injuries, losses, damages to any portion of the Work or the materials occasioned by any cause before its completion and acceptance, and shall bear the expense thereof. Where necessary to protect the Work or materials from damage, the Contractor shall, at the Contractor's expense, provide suitable drainage and erect such temporary structures as are necessary to protect the Work or materials from damage.

D. The suspension of the Work from any cause whatever shall not relieve the Contractor of his responsibility for the Work and materials as herein specified. If ordered by the Owner's Representative, the Contractor shall, at the Contractor's sole cost and expense, properly store materials which have been partially paid for by the Owner or which have been furnished by the Owner. Such storage by the Contractor shall be on behalf of the Owner, and the Owner shall, at all times, be entitled to the possession of such materials, and the Contractor shall promptly return the same to the site for the work when requested. The

Contractor shall not dispose of any of the materials so stored, except with written authorization from the Owner.

E. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorizations, is authorized to act at the Contractor's discretion to prevent such threatened loss or injury, and shall so act as though instructed to do so by the Owner.

F. Notwithstanding the foregoing provisions of this article, the Contractor shall not be responsible for the cost of repairing or restoring damage to the work, which damage is determined to have been proximately caused by an Act of God, in excess of five (5) percent of the contracted amount, provided the work is built in accordance with accepted and applicable building standards and the approved Plans and Specifications.

1. "Acts of God" shall include earthquakes in excess of a magnitude of 3.5 on the Richter Scale, wildfires and tidal waves.

4. LICENSES REQUIRED

A. The Contractor shall possess a valid Class B Contractor's license issued by California State Contractors License Board.

B. If traffic control in a construction zone is required, it must be performed by a State of California Construction Zone Traffic Control Contractor, Specialty License Classification C-31.

C. In accordance with Section 7028.15 of the Business and Professions Code, all Contractors shall be licensed in accordance with the laws of the State of California and any Contractor or Subcontractor not so licensed is subject to the penalties imposed by such laws.

D. The Contractor will also be required to possess a City of Oxnard business license at the time of Contract award.

5. CONTRACT PRICE; PAYMENT AND RETENTION

A. As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor FOUR HUNDRED AND EIGHT THOUSAND, ONE HUNDRED AND THIRTY-THREE DOLLARS, ($408,133.00) (the "Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with Contractor's Bid Proposal (attached hereto as Exhibit "A") subject to the provisions of this Contract and the Contract Documents.

B. Procedures relating to payment and retention are set forth in the Special Provisions.

6. CONTRACT TIME; NOTICE TO PROCEED; TERM

A. Contract Time. The Work under this Agreement shall be diligently prosecuted to completion before expiration of ninety (90) Working Days, after the issuance of the Notice to Proceed. The City will not issue a Notice to Proceed to the Contractor until this Contract,

including payment and performance bonds, insurance documents, business tax certificate have been executed and/or approved by the City.

B. Notice to Proceed. No work, service, material, or equipment shall be performed or furnished under this Contract unless and until a Notice to Proceed has been given to the Contractor by the City. Contractor shall commence Work pursuant to the Contract Documents and as directed by the City in the Notice to Proceed, and diligently execute the same to completion within the Contract Time. Any Work that is done by the Contractor in advance of such time shall be considered as being done at the Contractor's own risk and responsibility, and as a consequence will be subject to rejection.

C. Term. The Contract is effective as of the Effective Date listed, and shall remain in full force and effect until the Contractor has completed all Work pursuant to the Contract Documents, the City has accepted all Work, and the Contract Term has ended, unless the Contract has been otherwise terminated by the City.

7. DISPUTE RESOLUTION AND CLAIMS PROCEDURES

A. Public Contract Code Section 9204. For purposes of any Public Works Claims filed by a Contractor or Subcontractor (as those terms are defined in Public Contract Code Section 9204) under this Contract, the claims procedures in Public Contract Code Section 9204 ("Section 9204") and the provisions of this Section shall apply.

1. In the event of a Section 9204 Public Works Claim, Contractor may not stop working pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work during the Section 9204 process.
2. Any Public Works Claims not resolved by the Section 9204 procedures (and/or any tort claims) shall be subject to the provisions of the Government Claims Act (Government Code section 810 et seq.).

B. Public Contract Code Section 20104 et al. For purposes of any Public Works Claims of three hundred and seventy-five thousand dollars ($375,000) or less filed by a Contractor or Subcontractor (as those terms are defined in Public Contract Code Section 9204), the claims procedures in Public Contract Code Section 20104.2 and the provisions of this Section shall apply.

1. In the event of a Section 20104 Public Works Claim, Contractor may not stop working pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work during the Section 20104.2 process.
2. Any Public Works Claims not resolved by the Section 20104.2 procedures (and/or any tort claims) shall be subject to the provisions of Section 20104.4 and the Government Claims Act (Government Code section 810 et seq.).

C. For disputes or claims that do not constitute Public Works Claims, City and Contractor agree to comply with the following process:

1. Each Party shall designate a senior management or executive level representative to negotiate any dispute.
2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.
3. If the issue remains unresolved after ten (10) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between the legal counsel for each Party. If the above process fails, the Parties may mutually agree to engage in non-binding mediation or arbitration in which the Parties equally share the costs of any mediator or arbitrator, or may proceed with suit or other remedies, subject to the provisions of subparagraph (5) of this Subsection and other applicable provisions and laws.
4. The alternative dispute resolution process set forth herein is a material condition to Contract and must be exhausted as an administrative remedy prior to either Party initiating legal action.
5. The provisions of the Government Claims Act (Government Code section 810 et seq.) are also required prior to initiating suit against the City.

8. TERMINATION OF AGREEMENT FOR CONVENIENCE

A. The City may, by providing thirty (30) days' advance written notice to Contractor, terminate this Agreement in whole or in part, whenever the City shall determine that such termination is in the best interests of the City, or when it becomes impracticable or impossible to proceed, or because of conditions or events beyond the control of the City. Any such termination shall be effected by delivery to Contractor of a Notice of Termination for Convenience, specifying the extent to which performance of Work under this Agreement is terminated, and the date upon which such termination becomes effective. Upon such termination, the obligations of the Contractor for portions of the Work already performed shall continue.

B. Upon receipt of a Notice of Termination for Convenience, the Contractor shall, unless the notice directs otherwise, do the following:

1. Immediately discontinue the Work to the extent specified in the notice.
2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary to complete such portion(s) of the Work that are not to be discontinued.
3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent that they relate to the performance of the discontinued portion of the Work.
4. Thereafter do only such Work as may be necessary to preserve and protect the Work already in progress and to protect materials, plants, and equipment on the Project site or in transit thereto.

C. Upon such termination, the Contractor will be paid without duplication for:

1. Work completed in accordance with the Contract Documents prior to the effective date of the Notice of Termination for Convenience;
2. Reasonable costs incurred in settlement of terminated contracts with Subcontractors, suppliers and others; and
3. Reasonable expenses directly attributable to termination.

The Contractor shall submit a final termination settlement proposal to the City no later than ninety (90) days from the effective date of termination, unless extended in writing by the City, upon written request by the Contractor. If the Contractor fails to submit a proposal, the City may determine the amount, if any, due the Contractor as a result of the termination. The City will pay the Contractor the amount it determines is reasonable. If the Contractor disagrees with the amount determined by the City as being reasonable, the Contractor shall provide notice to the City within thirty (30) Days of receipt of payment. Any amount due shall be subject to the dispute resolution provisions set forth in the Contract Documents.

D. Contractor shall include provisions in all of its subcontracts, purchase orders, and other contracts permitting termination for convenience by Contractor on terms that are consistent with this Contract and that afford no greater rights of recovery against Contractor than are afforded to Contractor under this Section 7.

9. TERMINATION FOR CONTRACTOR'S DEFAULT

A. Default. The City may terminate this Contract for Contractor's default as set forth in this Section. The City will consider the Contractor in default of this Contract if, prior to the City's acceptance of the Work, the Contractor:

1. becomes insolvent, assigns its assets for the benefit of its creditors, is unable to pay its debts as they become due, or is otherwise financially unable to complete the Work;
2. abandons the Work by failing to report to the Work site and diligently prosecute the Work to completion;
3. disregards written instructions from the City or materially violates provisions of the Contract Documents;
4. fails to prosecute the Work according to the schedule approved by the Engineer,
5. disregards laws or regulations of any public body having jurisdiction, or
6. commits continuous or repeated violations of regulatory or statutory safety requirements.

Notices, and other written communications regarding default between the Contractor, the City, and the Surety shall be transmitted in accordance with Section 25 ("NOTICES") of this Contract.

B. Notice and Opportunity to Cure. The City will issue a written notice to cure the default to the Contractor and its Surety. The Contractor shall commence satisfactory corrective actions within five (5) Working Days after receipt. If the Contractor fails to commence satisfactory corrective action within five (5) Working Days after receipt of the notice to cure, or to diligently continue satisfactory and timely correction of the default thereafter, the City will consider the Contractor in default of the Contract and:

1. will terminate the Contractor's right to perform under the Contract by issuing a written notice of termination for default to the Contractor and its Surety;
2. may use any materials, equipment, tools or other facilities furnished by the Contractor to secure and maintain the Work site, and

3. may furnish labor, equipment, and materials the City deems necessary to secure and maintain the Job Site;

C. Remedies Cumulative. The provisions of this Section shall be in addition to all other legal rights and remedies available to the City. Termination of this Contract will not relieve the Surety of its obligation for any just claims arising out of the Work performed.

10. PREVAILING WAGE

A. Compliance with State Prevailing Wage Requirements. Pursuant to Labor Code Section 1773, the City has obtained the prevailing rate of per diem wages and the prevailing wage rate for holiday and overtime work applicable in Ventura County, California from the Director of the Department of Industrial Relations (DIR) for each craft, classification, or type of worker needed to perform the Work required under this Contract. A copy of these prevailing wage rates are on file at the City's Finance Department/Purchasing Division and shall be made available for review to any interested party on request. In addition, a copy of the prevailing rate of per diem wages may be obtained via the internet at: http://www.dir.ca.gov/DLSR/PWD. Contractor and all Subcontractors shall pay not less than said specified State of California rates to all workers employed by them in the execution of the Work contemplated by this Contract, including workers performing Work covered by under Labor Code Sections 1720 and 1720.9. Contractor shall be responsible for using the correct and current prevailing wage rates. Contractor shall be solely responsible for using the correct wage decision or determination and performing accordingly. An error on the part of any awarding body does not relieve the Contractor from the responsibility for payment of the correct prevailing wage.

B. Conflict. It is further expressly agreed by and between the Parties hereto that should there be any conflict between the terms of this Section 10 and the provisions of Exhibit "A", the terms of this Section 10 shall control and nothing herein shall be considered as an acceptance of the terms of Contractor's Submitted Bid Proposal conflicting with the requirements of this Section 10.

C. Payroll Records. Contractor must comply with the provisions of Labor Code sections 1776 and 1812 and all implementing regulations, including without limitation, those set forth in Title 8 of the California Code of Regulations, Section 16000 et seq. (hereinafter the "Regulations"), which are fully incorporated by this reference, including requirements for electronic submission of payroll records to the DIR.

1. Contractor and Subcontractor Obligations. Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

   a. The information contained in the payroll record is true and correct; and

   b. Contractor or the Subcontractor has complied with the requirements of Labor Code §§ 1771, 1811, and 1815 for any Work performed by its employees on the Project.

2. Certified Record. A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to City, to the Division of Labor Standards Enforcement, to the Division of Apprenticeship Standards of the DIR, and as further required by the Labor Code.

3. Enforcement. Upon notice of noncompliance with Labor Code § 1776, Contractor or Subcontractor has ten days in which to comply with the requirements of this section. If Contractor or Subcontractor fails to do so within the ten-day period, Contractor or Subcontractor will forfeit a penalty of $100.00 per day, or portion a day, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Contractor.

D. Apprentices. Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code section 1777.5, which is fully incorporated by reference.

E. Notices. Pursuant to Labor Code section 1771.4, Contractor is required to post all Job Site notices, including prevailing wage rates and other notices as required by regulation.

F. Other Labor Requirements. Contractor has the responsibility for and shall comply with all other requirements of California Labor Code Section 1720 et seq., the Regulations, and all other applicable State labor laws. Contractor further acknowledges and agrees that it will be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with those laws. Contractor will require the same of all its Subcontractors.

G. Statutory Penalties. The statutory penalties for failure to pay prevailing wage or to comply with State wage and hour laws will be enforced as follows:

1. Pursuant to Labor Code section 1775, the Contractor and any Subcontractor under it shall forfeit as a penalty to the City not more than two hundred dollars ($200.00), for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate as determined by the Director of the DIR for such work or craft in which such worker is employed for any public work done under this Contract by it or by any Subcontractor under it. The difference between such prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.

2. The Contractor or Subcontractor shall, as a penalty to the City, forfeit twenty-five dollars ($25) for each worker employed in the execution of this Contract by the respective contractor or Subcontractor for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of this Subsection. In awarding any contract for public work, Contractor must forfeit to City twenty-five dollars ($25.00) per day for each worker who works in excess of the minimum working hours when Contractor does not pay overtime. In accordance with the provisions of Labor Code Sections 1810 et seq., eight (8) hours is the legal working day.

H. DIR Monitoring. Pursuant to Labor Code § 1771.4, the Contract for this Project is subject to compliance monitoring and enforcement by the DIR.

I. DIR Registration. Pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and its Subcontractors must be registered with the DIR prior to the execution of a contract to perform public works. By entering into this Contract, Contractor represents that it is aware of the registration requirement and is currently registered with the DIR. Contractor shall maintain a current registration for the duration of the Project. Contractor shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in any subcontract and ensure that all Subcontractors are registered at the time this Contract is entered into and maintain registration for the duration of the Project.

11. LIQUIDATED DAMAGES

If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of two hundred and fifty dollars ($250) per day for each Calendar Day of unexcused delay in completion, and such liquidated damages may be deducted from City's payments due or to become due to Contractor under this Contract.

12. COMPLIANCE WITH LAWS

Contractor shall comply with all Laws applicable to the performance of the Work required by the Contract Documents, including any rule, regulation, or bylaw governing the conduct or performance of Contractor, its employees, officers, board members, agents, independent contractors, and Subcontractors. Unless otherwise specified in the Contract Documents, all required permits and licenses, including a City business license, shall be held or obtained by the Contractor at its sole expense and prior to commencing any Work hereunder.

13. WORKERS' COMPENSATION CERTIFICATION

Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code § 3700 which require 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 such provisions before commencing the performance of the Work on this Contract."

14. INSURANCE

Contractor shall procure and maintain at its own expense at all times during the period covered by this Contract (and through the one-year guarantee period following the date of City's acceptance of the Project) the following policies of insurance as approved by the City's Risk Manager as set forth in INS-G attached as Exhibit B to this Contract.

15. FEDERAL GRANT CONTRACT PROVISIONS

Contractor acknowledges that the Project is being funded in full or in part with Coronavirus State and Local Fiscal Recovery Funds (CSLFRF) by the Treasury Department under the American Rescue Plan Act (ARPA) and further acknowledges and agrees to the provisions in the "**Federal Grant Contract Addendum**" attached to this Contract as **Exhibit "E**" and incorporated by

reference as if fully set forth herein. The "**Master Grant Agreement**" is attached to the Contract as **Exhibit "F"** and incorporated by reference as if fully set forth herein.

A. **ACCESS TO RECORDS**. (1) The Contractor agrees to provide the City of Oxnard, ARPA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. (3) The Contractor agrees to provide the ARPA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the Contract. (4) In compliance with the Disaster Recovery Act of 2018, the City of Oxnard and the Contractor acknowledge and agree that no language in this Contract is intended to prohibit audits or internal reviews by the ARPA Administrator or the Comptroller General of the United States.

B. **SEAL, LOGO AND FLAGS**. The Contractor shall not use the DHS seals(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific ARPA pre-approval.

C. **COMPLIANCE WITH FEDERAL LAW REGULATIONS, AND EXECUTIVE ORDERS**. This is an acknowledgement that ARPA financial assistance will be used to fund all or a portion of the Contract. The Contractor will comply with all applicable Federal laws, regulations, executive orders, and ARPA policies, procedures, and directives.

D. **NO OBLIGATION BY FEDERAL GOVERNMENT**. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the Contract.

E. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**. Contractor must comply with the requirements of the The False Claims Act (31 U.S.C. 3729-3733) which prohibits the submission of false or fraudulent claims for payment under a Federal grant funded project. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.

16. TIME OF THE ESSENCE

Time is of the essence in the performance of this Contract.

17. INDEMNIFICATION

A. Notwithstanding the limits of any insurance and to the fullest extent permitted by law, Contractor shall indemnify the City, its elected or appointed officials, officers, agents, volunteers and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (hereinafter "Claims or Liabilities") that may be asserted or claimed by any person, firm or entity arising or alleged to arise out of or in connection with the performance of the Work, operations, or activities of Contractor, its agents, employees, Subcontractors, or invitees on the Project, or arising or alleged to arise from the acts or omissions of Contractor hereunder, or arising or alleged

to arise from Contractor's performance of or failure to perform any term, provision, covenant or condition of this Contract, but excluding such Claims or Liabilities or portion of such Claims or Liabilities arising or alleged to arise from the active negligence, sole negligence, or willful misconduct of the City, its elected or appointed officials, officers, agents, volunteers, or employees, and in connection therewith:

1. Contractor will defend any action or actions filed in connection with any of said Claims or Liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;
2. Contractor will promptly pay any judgment rendered against the City, its elected or appointed officials, officers, agents, volunteers, or employees for any such claims or liabilities arising or alleged to arise out of or in connection with Contractor's (or its agents', employees', Subcontractors' or invitees') performance of or failure to perform such Work, operations or activities hereunder; and Contractor agrees to save and hold the City, its elected or appointed officials, officers, agents, volunteers and employees harmless therefrom;
3. In the event the City, its elected or appointed officials, officers, agents, volunteers, or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising or alleged to arise out of or in connection with the performance of or failure to perform the Work, operation, or activities of Contractor hereunder, Contractor shall pay to the City, its elected or appointed officials, officers, agents ,volunteers, or employees, any and all costs and expenses incurred by the City, its elected or appointed officers, officials, agents, volunteers, or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees for counsel acceptable to City;
4. Contractor's duty to defend, indemnify, and hold harmless as set out in this Section shall include any claims, liabilities, obligations, losses, demands, actions, penalties, suits, costs, expenses or damages or injury to persons or property arising or alleged to arise from, in connection with, as a consequence of, or pursuant to any state or federal law or regulation regarding hazardous substances, including but not limited to, the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Resource Conservation and Recovery Act of 1976 ("RCRA"), the Hazardous and Solid Waste Amendments of 1984, the Hazardous Material Transportation Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, the California Hazardous Substance Account Act, the California Hazardous Waste Control Law or the PorterCologne Water Quality Control Act, as any of those statutes may be amended from time to time.

B. City will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code § 9201. The Contractor's indemnification and defense obligations pursuant to this Section shall survive the termination of this Contract. Contractor shall require the same indemnification from all Subcontractors.

18. THIRD PARTY CLAIMS

The City shall have full authority to compromise or otherwise settle any claim relating to the Project at any time. The City shall timely notify the Contractor of the receipt of any third-party claim relating to the Project. The City shall be entitled to recover its reasonable costs incurred in providing this notice.

The Contractor shall not have any authority to compromise or otherwise settle any claim relating to the Project; any effort by the Contractor to do so shall be deemed a breach of the Contract, and the City will not participate in any such compromise or settlement. Within five (5) Calendar Days of the date that the Contractor receives any third-party claim relating to this Project, the Contractor shall provide written notice thereof and a copy of the claim to the City Attorney.

19. CONFLICTS OF INTEREST

The Contractor shall not accept any employment or representation during the Contract Term or within twelve (12) months thereafter that is or may likely make the Contractor "financially interested," as provided in Government Code Sections 1090 and 87100, in any decisions made by the City on any matter in connection with which the Contractor has been retained pursuant to the Contract Documents."

20. REPORTS; BOOKS AND RECORDS; AUDIT

A. Upon request by the Project Manager, Contractor shall prepare and submit reports concerning Contractor's performance of the Work required by this Contract.

B. Contractor shall keep such books and records as shall be necessary to perform the work required by this Contract and enable the Project Manager to evaluate the cost and the performance of such Work.

C. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles, and Contractor and its subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred Project costs and matching funds by line item for the Project. The Project Manager and the parties specified in Article V of the Master Agreement referenced in Section 15 of this Contract and attached hereto as Exhibit "B", shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

D. Records and supporting documents pertaining to the use of funds paid to Contractor hereunder shall be retained by Contractor and made available to the Project Manager for purposes of performing an audit for a period of five (5) years from the termination of this Contract.

21. NONDISCRIMINATORY EMPLOYMENT

A. The Contractor shall not unlawfully discriminate against any individual based on race, religion or religious creed, color, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual

orientation, immigration status, citizenship or military and veteran status. The Contractor shall comply with the nondiscrimination mandates of all statutes, ordinances and regulations.

B. For every Subcontractor who will perform Work on the Project, the Contractor shall be responsible for such Subcontractor's compliance with this Section. The Contractor shall include in the written contract between itself and each Subcontractor a copy of the provisions in this Section and a requirement that each Subcontractor shall comply with those provisions. The Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure Subcontractor's compliance. The Contractor shall diligently take corrective action to halt or rectify any failure to comply.

22. MODIFICATIONS AND AMENDMENTS

This Contract may be modified or amended only by written Change Orders as specified in the Contract Documents or a written instrument signed by both Parties.

23. ENTIRE AGREEMENT

A. This Contract supersedes any and all prior or contemporaneous agreements, either oral or written, between the City and Contractor with respect to the subject matter of this Contract.

B. The Contract Documents contain all of the covenants and agreements between the Parties with respect to the subject matter herein, and each Party acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any Party, except those covenants and agreements in this Contract and the Contract Documents incorporated herein.

C. No agreement, statement, or promise with respect to the subject matter of the Contract Documents, which is not contained in the Contract Documents, or in a valid modification or amendment to the Contract Documents, shall be valid or binding on either Party.

24. AMBIGUITIES

This Contract is in all respects intended by each Party hereto to be deemed and construed to have been jointly prepared by the Parties and the Parties hereby expressly agree that any uncertainty or ambiguity existing herein shall not be interpreted against either of them. Except as expressly limited by this paragraph, all of the applicable rules of interpretation of contract shall govern the interpretation of any uncertainty or ambiguity of this Contract. Notwithstanding the foregoing, the Parties agree that Exhibit "A" is attached hereto for reference purposes, and to the extent there are any ambiguities, inconsistencies, or conflicts between the terms of this Contract and Exhibit "A", the terms of this Contract shall control and nothing set forth in Exhibit "A" shall be deemed to supersede any of the provisions of this Contract.

25. NOTICES

A. Any notice to be provided pursuant to this Contract shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the Parties as follows:

TO CITY:	City of Oxnard, Public Works Department 305 W Third St, East Wing, Third Fl Oxnard, CA 93030 Attn: Project Manager – PW 25-49R
TO CONTRACTOR:	Jaynes Brothers Construction, Inc. 996 Lawrence Drive, Suite 201 Newbury Park, CA 91320 Attn: Chase Jaynes

B. Notices, payments, and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.

C. Either Party, or the surety, may change its address by giving notice in writing to all other parties listed above, and thereafter notices shall be addressed and transmitted to such new address.

26. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES

No officer or employee of the City shall be personally liable to Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to Contractor or to its successor(s), or for any breach of any obligation of the terms of this Contract.

27. REVIEW BY ATTORNEYS

Each Party hereto has had its attorneys review this Contract and all related documents. Each Party hereto has consulted with its attorneys and has negotiated the terms of this Contract based on such consultation.

28. BONDS

Concurrently with the execution of this Contract by the Contractor, and before the commencement of any Work, Contractor shall furnish to the City a Performance Bond, and a Payment Bond (Labor and Materials Bond) each in an amount equal to one hundred percent (100%) of the Contract Price written on the forms included in the Contract Documents. These bonds must remain in force until the later of (a) the expiration of the one-year guarantee period; or (b) one year from the date of completion of the corrective Work. Such bonds must be issued by a responsible corporate Surety, licensed and authorized to issue such bonds in the State of California.

29. CARE OF WORK

Contractor must adopt reasonable methods during the life of the Contract to furnish continuous protection to the Work, and the equipment, materials, papers, documents, plans, studies, and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the Work by the City, except those losses or damages as may be caused by the City's own negligence. The performance of the Work by Contractor or the payment of money by the City shall not relieve Contractor from any obligation to correct any incomplete, inaccurate, or defective Work (including the obligation to remedy any defective Work

or materials during the one-year guarantee period after the City's acceptance thereof) at no further cost to the City.

30. CAPTIONS AND HEADINGS

The captions and headings contained in this Contract are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

31. OWNERSHIP OF DOCUMENTS

No portion of the Contract Documents may be used for any purpose other than construction of the Project, without prior written consent from City. Contractor is deemed to have conveyed the copyright in any designs, drawings, specifications, Shop Drawings, or other documents (in paper or electronic form) developed by Contractor for the Project, and City will retain all rights to such works, including the right to possession.

32. SUCCESSORS, HEIRS, AND ASSIGNS

Except as otherwise expressly provided herein, this Contract shall be binding upon the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties and, likewise, shall inure to the benefit of the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties. This Contract may not be assigned or transferred by Contractor without the concurrence of the surety and express written consent of the City.

33. GENDER; PLURAL

In this Contract, unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall include one another.

34. SEVERABILITY

If any one or more of the sentences, clauses, paragraphs, or sections contained herein is declared invalid, void, or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Contract and shall not affect, impair, or invalidate any of the remaining sentences, clauses, paragraphs, or sections contained herein.

35. GOVERNING LAW

The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the Parties under this Contract, shall be construed pursuant to and in accordance with California law.

36. CUMULATIVE REMEDIES

Except with respect to rights and remedies expressly declared to be exclusive in this Contract, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default of any other default by the other Party.

37. VENUE

All proceedings involving disputes over the terms, provisions, covenants, or conditions contained in this Contract and all proceedings involving any enforcement action related to this Contract shall be initiated and conducted in the applicable court or forum in Ventura County, California.

38. EFFECTIVENESS OF CONTRACT

This Contract shall not be binding upon the City until signed by the authorized representative(s) of Contractor, approved by the City's Risk Manager and as to form by the City Attorney, and executed by the authorized City personnel or the Mayor.

39. REPRESENTATIONS OF PARTIES AND PERSONS EXECUTING CONTRACT

Each of the Parties to this Contract hereby represents that all necessary and appropriate actions of their governing bodies have been taken to make this Contract a binding obligation of each of the Parties hereto. The persons executing this Contract warrant that they are duly authorized to execute this Contract on behalf of and bind the Parties each purports to represent.

40. WAIVER

No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default under this Contract shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Contract.

41. INDEPENDENT CONTRACTOR STATUS

Contractor is an independent contractor. All persons working for or under the direction of the Contractor are the Contractor's employees, agents, or subcontractors, and they shall not be deemed agents, servants, or employees of the City.

42. COUNTERPARTS

This Contract may be executed by the Parties in counterparts, and when executed by each of the Parties, each counterpart shall be deemed to be a part of this Contract.

43. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by Law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either Party the Contract shall forthwith be physically amended to make such insertion or correction.

44. ATTORNEY'S FEES

If either Party commences an action against the other Party, whether legal, administrative, or otherwise, arising out of or in connection with this Contract, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

[END OF THIS PAGE – SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have entered into this Contract effective on the date as stated herein and upon signature of all Parties.

CITY OF OXNARD

☒ Luis Mc Arthur, Mayor[1] Date
☐ Purchasing Agent

JAYNES BROTHERS CONSTRUCTION, INC.

Chase Jaynes, President & CFO [2] Date

ATTEST:

Lourdes A. López, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

Stephen M. Fischer City Attorney (always required) Date

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000. The Purchasing Agent may execute any authorized agreement up to $200,000.

[2] The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBITS

Exhibit A: Contractors Bid Proposal.

Exhibit B: Form INS-G: Insurance Requirements.

Exhibit C: [RESERVED - NOT USED]

Exhibit D: Small/Minority/Women's Business Enterprises and Labor Surplus Area Firm Outreach Plan

Exhibit E: Federal Grant Contract Addendum

Exhibit F: Grant Master Agreement

Bonds

The corresponding exhibits and forms contained within follow.

EXHIBIT A

CONTRACTOR'S BID PROPOSAL

BID SCHEDULE

CITYWIDE PLAYGROUND REPLACEMENT PROJECT – OLOLKOY (OXNARD)
BEACH PARK (REBID)
SPECIFICATION NO. PW 25-49R

Bidder's Name: Jaynes Brothers Construction

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby declares they have carefully examined the locations of the proposed work, the Plans, the Special Provisions, Bid Item Descriptions, and Contract documents; and hereby proposes to furnish all labor, materials, tools, equipment, supplies and incidentals required to complete the work. All of the aforementioned shall be done in accordance with said Plans, Special Provisions, and other Contract Documents to the satisfaction and under the direction of the City Engineer at the following prices:

ITEM NO.	DESCRIPTION	PAYMENT REFERENCE	UNIT OF MEASURE	TOTAL AMOUNT
1.	Mobilization and demobilization (5% maximum of Total Bid Price)	1001-3	LS	$ 15,352.50
2.	Temporary Fencing and Protection	1003-4	LS	$ 5,614.81
3.	Play Area Equipment and Materials Removals	1004-4	LS	$ 41,226.68
4.	Concrete Work	1005-4	LS	$ 6,243.35
5.	Supply and Installation of Play Area Equipment	1006-5	LS	$ 152,423.51
6.	Play Area Surface	1007-4	LS	$ 187,272.15
TOTAL BID PRICE: $ 408,133.00				

TOTAL BID PRICE IN DIGITS: $ 408,133.00

TOTAL BID PRICE IN WORDS:

Four hundred and eight thousand, one hundred and thirty three dollars

Bidder's Company Name: Jaynes Brothers Construction

Signature: Chase Jaynes
Print: Chase Jaynes

Title: President
Date: 1/15/25

EXHIBIT B

FORM INS-G: INSURANCE REQUIREMENTS

(INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS (WITHOUT BUILDER'S RISK REQUIREMENT)

1. Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $2,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project location or shall be twice the occurrence amount;

b. Business Automobile Liability Insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than $1,000,000, with neither Contractor nor listed subcontractors having less than $500,000 individually. The Professional Liability/Errors and Omissions Insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-G. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-G or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages **(this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

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

7. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City=s practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODESUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER ASPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $2,000,000 PRODUCTS COMP/OP AGG. $2,000,000 PERSONAL & ADV. INJURY $2,000,000 EACH OCCURRENCE $2,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract				Minimum coverage $1,000,000 Each consultant/ $500,000 & listed sub-consultant

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE

GENERAL LIABILITY SPECIAL ENDORSEMENT

SUBMIT IN DUPLICATE

FOR THE CITY OF OXNARD (the City)

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
❒ COMMERCIAL GENERAL LIABILITY ❒ Claims Made
❒ COMPREHENSIVE GENERAL LIABILITY Retroactive Date
❒ OWNERS & CONTRACTORS PROTECTIVE _____

OTHER PROVISIONS

COVERAGES

	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
❒ GENERAL		
❒ PRODUCTS/COMPLETED OPERATIONS		
❒ PERSONAL & ADVERTISING INJURY		
❒ FIRE DAMAGE		
❒ _____		
❒ _____		

CLAIMS: Underwriter=s representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: (_____)

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured=s scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company=s limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED=S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, occurrence form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE
❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

Agreement No. 32500403

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT

SUBMIT IN DUPLICATE

FOR THE CITY OF OXNARD (the City)

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY

❒ BUSINESS AUTO POLICY

❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter=s representative for claims pursuant to this insurance.

Name: _____

Address: _

_____

Telephone: (_____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured=s scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company=s limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED=S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, occurrence" form CA0001, code (any auto@); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc. 8520
Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE
❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____

(original signature required)

Telephone: ( ) Date Signed _____

EX. B-5

EXHIBIT C

[RESERVED - NOT USED]

EXHIBIT D

SMALL / MINORITY / WOMEN'S BUSINESS ENTERPRISES AND LABOR SURPLUS AREA FIRM OUTREACH PLAN

Project Number: PW 25-49R

Contractor: N/A

Submittal #: _____

In this section, the Contractor is to provide details regarding strategies and efforts made to solicit, engage and utilize small and minority businesses, women's business enterprises (S/M/WBE) and labor surplus area (LSA) firms to demonstrate responsiveness to 2 CFR § 200.321.

1. Identify the items of work made available to S/M/WBEs and LSAs. Provide a description of the work items, approximate dollar amount and the percentage of the total Contract value.

Description of Work Item	Contractor Normally Performs (Y/N)	Unbundled from Larger Scope (Y/N) If Yes, List Scope	Amount ($)	Percentage of Contract
N/A				

2. Describe the outreach efforts to identify S/M/WBEs and LSAs on this Agreement, list agencies/associations/databases consulted and the date, method and result of the outreach efforts (examples include but are not limited to: Small Business Administration, the Minority Business Development Agency, the Department of Commerce, minority business associates, Small Business Development Centers, DGS).

Agency/Association Chamber/Database Name	Contact Name	Method of Outreach (fax, Email, Phone, etc.)	Date of Outreach	Response / Outcome
N/A				

3. Describe the outreach efforts exerted to ensure that qualified S/M/WBEs and LSAs were solicited and had sufficient information about subcontracting opportunities on this Contract. Include the date and method of the outreach efforts.

S/M/WB E and LSA Firm Name	Contact Name / Title	Business Type (Small / Minority / Women)	Outreach Method (Fax, Email, Phone, etc.)	Initial Outreach Date	Follow-Up Date	Response / Interested in Bidding (Y/N)
N/A						

4. Detail methods utilized to determine whether S/M/WBEs and LSAs were qualified:
N/A

5. What approach was taken to arrange subcontracting work in a way that would encourage the participation of S/M/WBEs and LSAs on this Agreement. Provide examples of how delivery schedules, when permittable, were established in a way that would encourage participation by S/M/WBEs and LSAs.
N/A

6. Identify any contractual requirements, incentives, or other measures your team utilized or considered utilizing on this Agreement to promote S/M/WBE and LSA assistance. This may include assistance in meeting insurance limits, bonding requirements, obtaining certifications or licenses that are appropriate in facilitating the type of work the S/M/WBEs and LSAs would be performing.
N/A

EXHIBIT E
City of Oxnard – US Department of Treasury
under the American Rescue Plan Act ("ARPA")
CONTRACT ADDENDUM

Notice: The contract or purchase order to which this addendum is attached is made using federal assistance provided to the City of Oxnard by the US Department of Treasury under the American Rescue Plan Act ("ARPA"), Sections 602(b) and 603(b) of the Social Security Act, Pub. L. No. 117-2 (March 11, 2021).

The following terms and conditions apply to you, the contractor or vendor, as a contractor of the City of Oxnard, according to the City's Award Terms and Conditions signed on May 11, 2021; by ARPA and its implementing regulations; and as established by the Treasury Department.

Certifications requiring signature from the Contractor follow at the end of this Document.

1. Equal Opportunity. Contractor shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by EO 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Small and Minority Business, and Women's Business Enterprises (if applicable to this Contract, see SBE/MBE/WBE/LSA form attached below)

Contractor hereby agrees to comply with the following when applicable: The requirements of Executive Orders 11625 and 12432 (concerning Minority Business Enterprise), and 12138 (concerning Women's Business Enterprise), when applicable. Accordingly, the Contractor hereby agrees to take affirmative steps to assure that women and minority businesses are utilized when possible as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

a. Including qualified women's business enterprises and small and minority businesses on solicitation lists;

b. Assuring that women's enterprises and small and minority businesses are solicited whenever they are potential sources;

c. When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum participation by small and minority business, and women's business enterprises;

d. Where the requirement permits, establishing delivery schedules which will encourage participation by women's business enterprises and small and minority business;

e. Using the services and assistance of the Small Business Administration, and the U.S. Office of Minority Business Development Agency of the Department of Commerce; and

f. If any subcontracts are to be let, requiring the prime Contractor to take the affirmative steps in a through e above.

For the purposes of these requirements, a Minority Business Enterprise (MBE) is defined as an enterprise that is at least 51 percent owned and controlled in its daily operation by members of the following groups: Black, Hispanic, Asian or Pacific Islander, American Indian, or Alaskan Natives. A Women Business Enterprise (WBE) is defined as an enterprise that is at least 51 percent owned and controlled in its daily operation by women.

2. Suspension and Debarment. (Applies to all purchases. See certification form attached below.)

(A) This contract is a covered transaction for purposes of 2 CFR pt. 180 and 2 CFR pt. 3000. As such, the Contractor is required to verify that none of Contractor's principals (defined at 2 CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

(B) The Contractor must comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(C) This certification is a material representation of fact relied upon by the City of Oxnard. If it is later determined that the contractor did not comply with 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(D) The Contractor agrees to comply with the requirements of 2 CFR pt. 180, subpart C and 2 CFR pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

3. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended. (Applies to all purchases. See certification form attached below.) Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Contractor shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

4. Access to Records. (applies to all purchases.)

(A) The Contractor agrees to provide the City of Oxnard, the U.S. Department of Treasury, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. The

Contractor agrees to permit any of the foregoing parties to reproduce by any means or to copy excerpts and transcriptions as reasonably needed, and agrees to cooperate with all such requests.

(B) The Contractor agrees to provide the Treasury Department or authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

(C) No language in this contract is intended to prohibit audits or internal reviews by the Treasury Department or the Comptroller General of the United States.

5. Rights to Inventions Made Under a Contract or Agreement. Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any applicable implementing regulations.

6. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 through 3708) (Applies only to purchases over $100,000, when laborers or mechanics are used.) Where applicable, all contracts in excess of $100,000 that involve the employment of mechanics or laborers shall include a provision for compliance with 40 U.S.C. 3702 and 3704 of the Contract Work Hours and Safety Standards Act, as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 3702 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the workweek. The requirements of 40 U.S.C. 3704 are applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

7. Clean Air Act & Federal Water Pollution Control Act (Applies to purchases of more than $150,000.)

(A) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(B) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(C) The Contractor agrees to report each violation of the Clean Air Act and the Water Pollution Control Act to the City of Oxnard and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(D) Contractor agrees to include these requirements in each subcontract exceeding $150,000 financed in whole or in part with Federal assistance.

8. <u>Prohibition on certain telecommunications and video surveillance services or equipment (Huawei and ZTE)</u>

Contractor is prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by **Huawei Technologies Company or ZTE Corporation** (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

<u>9. Buy USA - Domestic Preference for certain procurements using federal funds</u>. Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products

such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

10. Procurement of Recovered Materials: (Applies only if the work involves the use of materials)

(A) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: i. Competitively within a timeframe providing for compliance with the contract performance schedule; ii. Meeting contract performance requirements; or iii. At a reasonable price.

(B) Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, https://www.epa.gov/smm/comprehensiveprocurement-guideline-cpg-program.

(C) The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

11. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

12. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Contractor is encouraged to adopt and enforce on-the-job seat belt policies and programs for your employees when operating company-owned, rented or personally owned vehicles.

13. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Contractor is encouraged to adopt and enforce policies that ban text messaging while driving, and establish workplace safety policies to decrease accidents caused by distracted drivers.

14. Davis-Bacon Act. (applies to projects over $2000)

(A) All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction) as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

(B) Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

(C) Additionally, contractors are required to pay wages not less than once a week.

15. <u>Compliance with the Copeland "Anti-Kickback" Act</u>. (applies when Davis-Bacon Act is required)

(A) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(B) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(C) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment

BYRD ANTI-LOBBYING CERTIFICATION

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

The Contractor, Jaynes Brothers Construction, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Chase Jaynes

Signature of Contractor's Authorized Official

Chase Jaynes

Name and Title of Contractor's Authorized Official

President

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION – LOWER TIER COVERED TRANSACTIONS

(Lower Tier refers to the agency or Contractor receiving Federal funds, as well as any subcontractors that the agency or Contractor enters into contract with using those funds)

As required by Executive Order 12549, Debarment and Suspension, and 31 CFR Part 19, and 2 CFR part 180, City may not enter into contract with any entity that is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal Government from participating in transactions involving Federal funds. Contractor is required to sign the certification below which specifies that neither Contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by the Federal agency. It also certifies that Contractor will not use, directly or indirectly, any of these funds to employ, award contracts to, engage the services of, or fund any Contractor that is debarred, suspended, or ineligible under 31 CFR Part 19.

Instruction for Certification

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

2. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

3. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definition and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

4. The prospective lower tier participant agrees by submitting this agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

5. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it

determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

8. Except for transactions authorized under paragraph 4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. Contractor certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statues or commission of embezzlement, theft, forgery, bribery, falsifications or destruction of records, making false statements, or receiving stolen property;

3. Are not presently indicted for, or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with, commission of any of the offenses enumerated in paragraph 2 of this certification, and

4. Have not within a three-year period preceding this application/ proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

5. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

Chase Jaynes
Name

President of Jaynes Brothers Construction
Title and Organization Name

Chase Jaynes
Signature

1/15/25
Date

EXHIBIT F
GRANT MASTER AGREEMENT
US Department of Treasury under the American Rescue Plan Act ("ARPA")

OMB Approved No. 1505-0271
Expiration Date: 11/30/2021

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address: City of Oxnard 300 W. Third St, 4th Floor Oxnard, California 93030	DUNS Number: 081790214 Taxpayer Identification Number: 956000756 Assistance Listing Number and Title: 21.027

Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorizes the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipients hereby agrees, as a condition to receiving such payment from Treasury, agrees to the terms attached hereto.

Recipient:

Authorized Representative Signature (above)

Authorized Representative Name: Alexander Nguyen

Authorized Representative Title: City Manager

Date Signed:

U.S. Department of the Treasury:

Authorized Representative Signature (above)

Authorized Representative Name: Jacob Leibenluft

Authorized Representative Title: Chief Recovery Officer, Office of Recovery Programs

Date Signed: May 17, 2021

PAPERWORK REDUCTION ACT NOTICE
The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.

a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with sections 602(c) and 603(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.

b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024.

3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury, as it relates to this award.

4. Maintenance of and Access to Records

a. Recipient shall maintain records and financial documents sufficient to evidence compliance with sections 602(c) and 603(c), Treasury's regulations implementing those sections, and guidance regarding the eligible uses of funds.

b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.

c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.

8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. Compliance with Applicable Law and Regulations.

a. Recipient agrees to comply with the requirements of sections 602 and 603 of the Act, regulations adopted by Treasury pursuant to sections 602(f) and 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

c. Statutes and regulations prohibiting discrimination applicable to this award, include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. Remedial Actions. In the event of Recipient's noncompliance with sections 602 and 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of sections 602(c) or 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in sections 602(e) and 603(e) of the Act.

11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to City of Oxnard by the U.S. Department of the Treasury."

14. Debts Owed the Federal Government.

a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.

b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.

b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.

a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

b. The list of persons and entities referenced in the paragraph above includes the following:

   i. A member of Congress or a representative of a committee of Congress;

   ii. An Inspector General;

   iii. The Government Accountability Office;

   iv. A Treasury employee responsible for contract or grant oversight or management;

   v. An authorized official of the Department of Justice or other law enforcement agency;

   vi. A court or grand jury; or

   vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

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OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address:	DUNS Number: 081790214
City of Oxnard 300 W. Third St, 4th Floor Oxnard, California, 93030	Taxpayer Identification Number: 956000756 Assistance Listing Number: 21.019

Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient: DocuSigned by: Alexander Nguyen
50594C854EF444A...

Authorized Representative: Alexander Nguyen

Title: City Manager

Date signed: 5/11/2021

U.S. Department of the Treasury:

_____

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE
The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

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U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.
   a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.

4. Maintenance of and Access to Records
   a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.

   b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.

   c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.

8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

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9. Compliance with Applicable Law and Regulations.

a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.

ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.

viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

ix. Generally applicable federal environmental laws and regulations.

c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:

i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

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ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;

iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;

iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

10. Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.

12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."

14. Debts Owed the Federal Government.

a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.

b. Any debts determined to be owed the federal government must be paid promptly by

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Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.
    a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.

    b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.
    a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

    b. The list of persons and entities referenced in the paragraph above includes the following:
        i. A member of Congress or a representative of a committee of Congress;
        ii. An Inspector General;
        iii. The Government Accountability Office;
        iv. A Treasury employee responsible for contract or grant oversight or management;
        v. An authorized official of the Department of Justice or other law enforcement agency;
        vi. A court or grand jury; or
        vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

    c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

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OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the "Recipient") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient's program(s) and activity(ies), so long as any portion of the Recipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit http://www.lep.gov.

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OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.

5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

   The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.

7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.

8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.

9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

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agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

City of Oxnard	5/11/2021
Recipient	Date
DocuSigned by: Alexander Nguyen 505940254FF444A	
Signature of Authorized Official	

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Agreement No. 32500403

Bond No. _____

PAYMENT BOND
(LABOR AND MATERIALS)

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), State of California, has awarded to

JAYNES BROTHERS CONSTRUCTION, INC.
996 Lawrence Drive, Suite 201 Newbury Park, CA 91320 ("Principal")
(Name and address of Contractor)

a contract (the "Contract") for the Work described as CITYWIDE PLAYGROUND REPLACEMENT PROJECT - OLOLKOY (OXNARD) BEACH PARK (REBID) SPECIFICATION NO. PW 25-49R.

WHEREAS, under the terms of the Contract, the Principal is required before entering upon the performance of any Work, to file a good and sufficient Payment Bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, we, the undersigned Principal, and _____
_____
_____
(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, and our heirs, assignees, successors, executors and administrators are held and firmly bound, jointly and severally, unto the Agency and all Contractors, Subcontractors, laborers, material suppliers, and other persons employed in the performance of the Contract and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the penal sum of Four Hundred and Eight Thousand, One Hundred Thirty-Three Dollars ($408,133.00), this amount being not less than one hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this Work or labor, that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this Bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

Upon expiration of the time within which the California Labor Commissioner may serve a civil wage and penalty assessment against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management committee may commence an action against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor

Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, including all incorporated documents, shall in any manner affect its obligations on this Bond. The Surety hereby waives notice of any such change, extension, alteration, or addition. Additionally, the Surety hereby waives California Civil Code 2845 and 2849 as well as any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

"Principal"

JAYNES BROTHERS CONSTRUCTION, INC.
996 Lawrence Drive, Suite 201
Newbury Park, CA 91320

By: _____
Chase Jaynes
Its: President and C.F.O.

(Seal)

"Surety"

_____

_____

By: _____

Its: _____

By: _____

Its_____

(Seal)

Notes: This Bond must be executed and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Bond No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), has awarded to

JAYNES BROTHERS CONSTRUCTION, INC.
996 Lawrence Drive, Suite 201 Newbury Park, CA 91320 ("Principal")
(Name and address of Contractor)

a contract (the "Contract") for the Work described as CITYWIDE PLAYGROUND REPLACEMENT PROJECT - OLOLKOY (OXNARD) BEACH PARK (REBID) SPECIFICATION NO. PW 25-49R.

WHEREAS, Principal is required under the terms of the Contract to furnish a Bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and _____
_____
_____,
(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Agency in the penal sum of Four Hundred and Eight Thousand, One Hundred Thirty-Three Dollars ($408,133.00), this amount being not less than one hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, assignees, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the Contract and any alteration thereof made as therein provided, on the Principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Agency, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void one (1) year from the date of recordation of the Notice of Completion for the Project; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. Surety hereby waives any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, including all incorporated documents, or of the Work to be performed thereunder or the Specifications accompanying the same shall in any way affect the Surety's obligations under this Bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications.

Surety hereby waives California Civil Code 2845 and 2849. The City is the principal beneficiary of this Bond and has all rights of a party hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

"Principal"

JAYNES BROTHERS CONSTRUCTION, INC.
996 Lawrence Drive, Suite 201
Newbury Park, CA 91320

By: _____
Chase Jaynes
Its: President and C.F.O.

(Seal)

"Surety"

_____

_____

By: _____

Its: _____

By: _____

Its_____

(Seal)

Notes: This Bond must be executed and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Playground Replacement Project C2239	Construction/ Net Contract Award	Authorized Contingency	ESPIM Authorized Funding	Total/Net Project Value	Budget Balance
Starting Budget Balance					$3,992,925.40
Dunkirk Park PW 24-113R 32500253	$126,793.00	$12,679.30	$12,679.30	$152,151.60	$3,840,773.80
Community Center Park West PW 25-51 32500320	$134,000.00	$13,400.00	$13,400.00	$160,800.00	$3,679,973.80
Marina West PW 24-13R [1] 32500251	$83,337.00	$21,853.00	$21,853.00	$127,043.00	$3,552,930.80
College Estates Park PW 24-126 32500303	$199,993.90	$20,000.00	$20,000.00	$239,993.90	$3,312,936.90
Fremont Tot Park PW 25-48 32500304	$321,850.00	$32,185.00	$32,185.00	$386,220.00	$2,926,716.90
Wilson Park PW 20-53R [2] 32500341	$145,970.26	$25,426.00	$25,426.00	$196,822.26	$2,729,894.64
Carty Park PW 24-125 32500302	$169,219.30	$16,922.00	$16,922.00	$203,063.30	$2,526,831.34
Ololkoy Beach Park PW 25-49R	$408,133.00	$40,813.00	$40,813.00	$489,759.00	$1,873,718.69
Brekke Park PW 24-115R[3] 32500293	$136,127.65	$13,613.00	$13,613.00	$163,353.65	N/A

[1] Partially funded by Project C1313 utilizing QUIMBY funds ($135,189.00)

[2] Partially funded by Project C2019 utilizing CDBG funds ($108,296.85)

[3] Fully funded by Project C2404 using Measure O funds

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.3

DATE: February 18, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Additional Project Contingency Authority to Agreement 32500074 with LDP Associates, Inc. for the Replacement of the City's Data Center Cooling System.

RECOMMENDATION

That the City Council approve and authorize an increase of $50,000 in project contingency authority to an agreement with LDP Associates, Inc. for a new not-to-exceed value of $351,663, for use with the Data Center Cooling System Replacement Project IT 24-134.

(This item did not originate in Committee as it is a continuation of an item previously approved by the City Council.)

BACKGROUND

In the spring of 2024, it became apparent that the City's Data Center equipment was at high risk of shutting down due to the progressive failure of its specialized cooling system. On May 23rd, 2024, after considering information provided by the City's Chief Information Officer together with a recommendation from the Public Works Director, the City Manager found there was substantial evidence that the failure of the cooling system created an emergency that posed a significant risk to City property and essential services.

Oxnard City Code Section 4-20(B), authorizes the City Manager to implement emergency procurement procedures pursuant to Public Contract Code section 22050 when immediate action is required due to an emergency to preserve public facilities and procure the necessary equipment, services, and supplies without utilizing the City's formal procurement and bidding procedures.

In consideration of this, the City Council ratified an emergency order on June 4, 2024. This order allowed IT and Public Works staff to identify and directly negotiate an agreement with a contractor for the replacement of the failed server room cooling system. As part of the emergency order, staff returned to the Council with regular status updates, and to report on progress in identifying a suitable, qualified contractor to perform design and construction services within budget and under an expedited timeframe. On July 30, 2024, the City Council ratified the City Manager's award of contract to LDP Associates under agreement 32500074 to perform the replacement of the cooling system. Also at this time, the City Council terminated the emergency order.

DISCUSSION

As noted in the July 30, 2024 City Council staff report, the nature of the emergency work did not allow for sufficient evaluation of the preexisting conditions of the building envelope (e.g., roofing material condition), and the surrounding mechanical systems associated with the cooling system. Typically, for non-emergent projects, months of field inspection, non-destructive testing, and evaluations are conducted to ensure as much of the required work is identified and included in a contract before it is bid and awarded. This was not an option given the emergent nature of this work; this was anticipated by staff, as outlined in prior City Council staff reports.

Since the time of the award of contract, the project has made significant headway and is nearing completion. During the portion of the work that occurred on the roof, dry rot was discovered at the wood condenser pad and it was determined that all of this structure needed full replacement, adding cost to the project. To date, $26,655 (97%) of the original estimated contingency amount of $27,424 has been utilized to address this unforeseen work. The remaining amount of contingency authority ($768.87) is not sufficient for any further change orders if any more unforeseen items were to be discovered in the final stages of construction. At this time, staff is requesting an additional contingency authority in the amount of $50,000 to cover further unexpected conditions, if any should arise. Since the project is almost complete, this amount should cover any additional work. Staff is requesting this authorization now so that any unforeseen issues may be addressed quickly to avoid any financial liability to the City associated with delaying the contractor (e.g., overhead costs).

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

The total cost for the additional contingency authority being requested for this project is $50,000, which brings the total not-to-exceed value from $301,663 to $351,663. Funding to support this increase is currently available in the IT Internal Service Fund (731) account 7311804-56040.

COMMITTEE OUTCOME

This item did not originate in Committee as it is a continuation of an item previously approved by the City Council.

Prepared by: Morgan Kessler, City Engineer, Robert Ruben, Chief Information Officer

ATTACHMENTS

1. 7-30-24 CC Item H.1 Emergency Order Termination

CITY COUNCIL AGENDA REPORT

REPORT OF CITY MANAGER/EXECUTIVE DIRECTOR/SECRETARY
AGENDA ITEM NO. H.1

DATE: July 30, 2024

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org
Robert Ruben, Chief Information Officer, (805)385-7554, robert.ruben@oxnard.org

SUBJECT: Ratify the Declaration of Terminating the Emergency Order and Ratify Agreement 32500074 with LDP Associates, Inc. for Replacement of the City's Data Center Cooling System. (10 minutes)

RECOMMENDATION

That the City Council:

1. Ratify the City Manager's declaration of the termination of the emergency order to dispense with public bidding requirements pursuant to Public Contract Code section 22050 for the replacement of the Data Center Cooling System;
2. Ratify an Agreement with LDP Associates, Inc. in the amount of $274,239 with a Project contingency amount of $27,424 (10%) with LDP Associates, Inc. for a total not to exceed value of $301,663; and
3. Approve a Project allocation amount of $13,712 (5%) for engineering and project management for the Project.

(This item did not originate in Committee because it is a continuation of an item previously approved by the City Council on June 4, 2024.)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/qEJVi1ttehM

BACKGROUND

On June 4, 2024, the City Council ratified the City Manager's emergency order, per Oxnard City Code Section 4-20(B), to implement emergency procurement procedures pursuant to Public Contract Code section 22050 for the replacement of the City's Data Center Cooling System, which experienced a catastrophic failure.

The emergency at issue was declared on May 23, 2024, by the City Manager, after reviewing information provided by the City's Chief Information Officer and a recommendation from the Public Works Director. The City Manager found there was substantial evidence that the failure of the cooling system in the City's Data Center created an emergency posing a significant risk to city property and essential city services. The City Manager took immediate action and ordered the implementation of emergency procurement procedures to purchase and install a new cooling system without utilizing the City's formal procurement and bidding procedures.

DISCUSSION

On July 23, 2024, after reviewing information provided by the Public Works Director, the City Manager declared the emergency order to be terminated. This was based upon the facts that LDP Associates, Inc. (LDP) had been selected to conduct the work necessary to repair/replace the City's Data Center cooling system and an agreement has been finalized and signed by LDP. Therefore, staff is recommending that the City Council ratify the City Manager's declaration that the emergency order be terminated and ratify the agreement with LDP along with project allocation costs.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

The cost for this project shall not exceed $315,375, including the install agreement for $274,239, a 10% contingency for $27,424, and a 5% project allocation for any labor and other costs for $13,712. This will be funded from the operating budget from available appropriations in the Information Technology Fund (7311801-53200 and 7311804-56040).

It should be noted that because of the emergency nature of this process, a full engineering design and field survey was not completed. This may result in unforeseen or unknown site conditions requiring additional funds to address. Should this occur, staff will return to the City Council with updates.

COMMITTEE OUTCOME

This item did not originate in Committee because it is a continuation of an item previously approved by the City Council on June 4, 2024.

Prepared by: Michael Wolfe, Public Works Director, Michelle McCarron, Assistant City Attorney

ATTACHMENTS

1. 32500074 LDP Associates IT 24-134 FULLY EXECUTED
2. Presentation

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.4

DATE: February 18, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Public Project Agreement 32500393 with CSI Services for Central Park Fountain Renovation Project, Specification No. SD 25-23.

RECOMMENDATION

That the City Council approve and authorize:

1. A total of $723,511.00 in Project funds for the Central Park Fountain Renovation Project, Specification No. SD 25-23;
2. The Mayor to Execute an Agreement with CSI Services in the amount of $602,925.00 for the Project and approve a Project contingency amount of $60,293.00 (~10%) with CSI Services for a total not to exceed value of $663,218.00 for the Project;
3. A Project allocation amount of $60,293.00 (~10%) for engineering, inspection, survey and project management for the Project; and
4. A budget appropriation in the amount of $268,511 from the available fund balance in the Community Facilities District (CFD) 5 Fund (120, sub-fund 6050) to the Central Park Fountain Control Room Renovation Project (C2012) and corresponding Capital Outlay Fund (301) transfer in/appropriation in the same amount.

(This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.)

BACKGROUND

The Central Park Fountain Renovation Project, Specification SD 25-23 is located at 3200 North Oxnard Blvd. in the Riverpark Community Facilities District. The project includes furnishing all necessary labor, materials, equipment, and other incidental and appurtenant work to renovate the Central Park fountain control system, structure, and equipment vault. The scope of work includes the relocation of electrical controls and filtration equipment for easier routine access and inspection, new waterproofing measures for the structure, and a new access hatch, ladder, and mechanical ventilation fans for the vault.

Staff communicated with the Riverpark Neighborhood Council through multiple meetings about the project scope of work. Through those meetings, three “additive items” (see table) were included to the Fountain Renovation Project in response to their requests to improve the fountain functionality, durability, and lighting. The work is tentatively scheduled to begin in the Spring 2025 and continue into the Summer (150 working days) absent any delays due to supply chain issues, unforeseen site conditions, or weather. Staff will work closely with the Riverpark Neighborhood Council, as well as the residents who may be directly impacted by the work, to keep them informed of the project schedule.

Capital Improvement Program (CIP) Reference:

Project No. **C2012** – Central Park Fountain Control Room Renovation - CIP 2025-2029 - Adopted June 4, 2024 – Page 70.

DISCUSSION

The Notice Inviting Formal Bids (NIFB) for this project was published on December 5, 2024, in the local newspaper. Additionally, the NIFB was posted on multiple online platforms, including the City's website, and distributed to 28 contractors who have registered with the City. There were six companies that registered as plan holders prior to the opening of the bids. An on-site pre-bid meeting was held on December 17, 2024, and was attended by 3 contractors. The bids were opened on January 9, 2025, and the City received one bid from CSI Services in the amount of $534,425.00.

Therefore, the lowest bidder is CSI Services (CSI) and its bid is responsive to the City's NIFB. Following this determination, procurement staff reviewed all documentation received from CSI and its subcontractors. Procurement staff verified possession of required currently valid licenses, reviewed the federal Occupational Safety and Health Administration (OSHA) website for safety violations, and verified registration with the California Department of Industrial Relations (DIR). Based upon the available information and research performed to date, staff believes that the contractor is capable of satisfactorily completing the project. Thus, staff recommends that the City Council award the contract for this Project to CSI Services.

The base bid of this project included all work items to update the fountain and vault. Additionally, the bid packet requested pricing from bidders for three additive bid items to upgrade the lighting system to LED, vault lighting fixtures, and replacement of the filter system and control piping within the vault. These are items that, at the time of putting out the bid packet, staff was not certain would be feasible due to the estimated cost of the project. After the bid was confirmed, the additive items can be included in the project scope with an appropriation of funds from the Riverpark CFD fund balance. Based on the availability of funds within the district's fund balance and the additional cost of these upgrades, the Project Manager requests the City Council approval of the project including the base bid and three additive items.

Bid Item	**Description**	**Amount**
Base Bid	Base Bid	$534,425
Additive 1	Underwater LED Lighting Fixtures	$44,500
Additive 2	Vault Fluorescent Light Fixture	$4,000
Additive 3	Chemical Filter and Chemical Piping Equipment	$20,000
Total		**$602,925**

In addition to the project award amount of $602,925.00 to CSI (contract cost), Staff also recommends authorizing $120,586.00 for the project, which includes ~10% of the contract costs for project contingency) and ~10% of the contract cost for Staff and engineering services. These services include the following construction activities: engineering, inspection, survey, and project management. These expenses will only be billed as they are incurred and are not guaranteed costs against the project. The total estimated cost of this project, including contract cost, project contingency, and Staff and engineering services is $723,511.00.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

The total cost for this Project is $723,511.00 which includes the construction agreement, contingency and project allocation. The Central Park Fountain Renovation Project, Specification Number SD 25-23 has an available project budget balance of approximately $455,000 from the CFD 5 Fund (120, sub-fund 6050). Therefore, a budget appropriation in the amount of $268,511 is necessary from the available fund balance in the CFD 5 Fund (120, sub-fund 6050).

The original project budget was $600k and approximately $145k has been spent on contracted design and specifications with M6 Consulting.

The ongoing maintenance cost for this fountain is contained within the annual CFD 5 operations and will have no new impacts in comparison to the annual operating cost from the previous operating years.

COMMITTEE OUTCOME

This item did not originate in Committee as this is a capital improvement project specifically listed in the City's Capital Improvement Program budget, which was previously approved by the City Council.

Prepared by: Steve Howlett, Assistant Public Works Director, Anthony Miller, Interim Special Districts Manager

ATTACHMENTS

1. Agreement 32500393 CSI Services SD 25-23

CONSTRUCTION CONTRACT FOR
CENTRAL PARK FOUNTAIN RENOVATION PROJECT
SPECIFICATION NO. SD 25-23

BY AND BETWEEN
THE CITY OF OXNARD
AND
CSI SERVICES

THIS CONSTRUCTION CONTRACT (the "Contract") is made and entered this _____ day of _____, 2025 ("Effective Date"), by and between the CITY OF OXNARD, a California municipal corporation ("City") and CSI SERVICES ("Contractor"). Contractor's license number is 959577. The City and Contractor are sometimes hereinafter referred to as a "Party" and collectively referred to as the "Parties."

WHEREAS, the City requires construction of the CENTRAL PARK FOUNTAIN RENOVATION PROJECT as more fully described in the bid package issued by the City for SPECIFICATION NO. SD 25-23 (the "Project"); and

WHEREAS, on December 5, 2024, the City issued a Notice Inviting Bids and Contract Documents to prospective bidders for the Project. In response, Contractor submitted a Bid which the City determined to be the lowest responsive and responsible bid; and

WHEREAS, Contractor is a duly organized corporation in good standing in the State of California, and represents that it has the background, knowledge, experience, expertise and resources to perform the Work and other obligations encompassed by this Contract; and

WHEREAS, at its meeting held on _____, the Oxnard City Council duly accepted Contractor's Bid Proposal for the Project and directed that a written agreement for the Project be entered into with Contractor; and

WHEREAS, in light of the facts set forth above and the certifications made by Contractor as part of its Bid, the City desires to retain Contractor to perform the construction Work for the Project as set forth in this Contract and in the Contract Documents, as hereinafter described.

NOW, THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN AND FOR SUCH OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES HERETO AGREE AS FOLLOWS:

1. RECITALS

The Recitals set forth above are true and correct and are hereby incorporated into this Contract by this reference, as though set forth herein.

2. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE

A. Contract Documents. The Contract Documents consist of the following documents, all of which are either attached hereto as exhibits or are incorporated herein by this reference. Said Contact Documents are complementary; what is called for in one is binding as if called for in all, and together constitutes Contractor's performance obligations:

1. Contract and its attached Exhibits, subject to the limitations in Sections 10 ("Prevailing Wage") and 24 ("Ambiguities") with respect to Exhibit "A" (Contractor's submitted Bid Proposal as accepted by the City);
2. Change Orders issued and approved by the City;
3. Regulatory Permits from other agencies specified in Appendices A and B of the bid package or as may otherwise be required by law;
4. Bid Addenda issued by the City;
5. Notice Inviting Bids and Instructions to Bidders;
6. Special Provisions
7. General Provisions
8. Appendices
9. Plans
10. Bid Forms and attachment thereto;
11. Performance Bond;
12. Payment Bond.

3. CONTRACTOR'S OBLIGATIONS

A. Contractor will perform all of the Work required for the Project, as specified in the Contract Documents. Contractor must provide, furnish, and supply all things necessary and incidental for the timely performance and completion of the Work, including all necessary labor, materials, supplies, tools, equipment, transportation, onsite facilities, and utilities, unless otherwise specified in the Contract Documents. Contractor must use its best efforts to diligently prosecute and complete the Work in a professional and expeditious manner and to meet or exceed the performance standards required by the Contract Documents, and to the satisfaction of the Public Works Director or his/her designee (hereinafter the "Project Manager").

B. Until the acceptance of the Work, the Contractor shall have the responsible charge and care of the Work and of the materials to be used therein, (including materials for which partial payment has been received or materials which have been furnished by the Owner), and shall bear the risk of injury, loss or damage to any part thereof by the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of the Work.

C. The Contractor shall rebuild, repair, restore, and make good all injuries, losses, damages to any portion of the Work or the materials occasioned by any cause before its completion and acceptance, and shall bear the expense thereof. Where necessary to protect the Work or materials from damage, the Contractor shall, at the Contractor's expense, provide suitable drainage and erect such temporary structures as are necessary to protect the Work or materials from damage.

D. The suspension of the Work from any cause whatever shall not relieve the Contractor of his responsibility for the Work and materials as herein specified. If ordered by the Owner's Representative, the Contractor shall, at the Contractor's sole cost and expense, properly store materials which have been partially paid for by the Owner or which have been furnished by the Owner. Such storage by the Contractor shall be on behalf of the Owner, and the Owner shall, at all times, be entitled to the possession of such materials, and the Contractor shall promptly return

the same to the site for the work when requested. The Contractor shall not dispose of any of the materials so stored, except with written authorization from the Owner.

E. In an emergency affecting the safety of life or property, including adjoining property, the Contractor, without special instructions or authorizations, is authorized to act at the Contractor's discretion to prevent such threatened loss or injury, and shall so act as though instructed to do so by the Owner.

F. Notwithstanding the foregoing provisions of this article, the Contractor shall not be responsible for the cost of repairing or restoring damage to the work, which damage is determined to have been proximately caused by an Act of God, in excess of five (5) percent of the contracted amount, provided the work is built in accordance with accepted and applicable building standards and the approved Plans and Specifications.

1. "Acts of God" shall include earthquakes in excess of a magnitude of 3.5 on the Richter Scale, wildfires and tidal waves.

4. LICENSES REQUIRED

A. The Contractor shall possess a valid Class A Contractor's license issued by California State Contractors License Board.

B. If traffic control in a construction zone is required, it must be performed by a State of California Construction Zone Traffic Control Contractor, Specialty License Classification C-31.

C. In accordance with Section 7028.15 of the Business and Professions Code, all Contractors shall be licensed in accordance with the laws of the State of California and any Contractor or Subcontractor not so licensed is subject to the penalties imposed by such laws.

D. The Contractor will also be required to possess a City of Oxnard business license at the time of Contract award.

5. CONTRACT PRICE; PAYMENT AND RETENTION

A. As full and complete compensation for Contractor's timely performance and completion of the Work in strict accordance with the terms and conditions of the Contract Documents, City will pay Contractor Six Hundred Two Thousand Nine Hundred Twenty-Five dollars, ($602,925.00) (the "Contract Price") for all of Contractor's direct and indirect costs to perform the Work, including all labor, materials, supplies, equipment, taxes, insurance, bonds and all overhead costs, in accordance with Contractor's Bid Proposal (attached hereto as Exhibit "A") subject to the provisions of this Contract and the Contract Documents.

B. Procedures relating to payment and retention are set forth in the Special Provisions.

6. CONTRACT TIME; NOTICE TO PROCEED; TERM

A. Contract Time. The Work under this Agreement shall be diligently prosecuted to completion before expiration of one hundred and fifty (150) Working Days, after the issuance of the Notice to Proceed. The City will not issue a Notice to Proceed to the Contractor until this Contract, including payment and performance bonds, insurance documents, business tax certificate have been executed and/or approved by the City.

B. Notice to Proceed. No work, service, material, or equipment shall be performed or furnished under this Contract unless and until a Notice to Proceed has been given to the Contractor by the City. Contractor shall commence Work pursuant to the Contract Documents and as directed by the City in the Notice to Proceed, and diligently execute the same to completion within the Contract Time. Any Work that is done by the Contractor in advance of such time shall be considered as being done at the Contractor's own risk and responsibility, and as a consequence will be subject to rejection.

C. Term. The Contract is effective as of the Effective Date listed, and shall remain in full force and effect until the Contractor has completed all Work pursuant to the Contract Documents, the City has accepted all Work, and the Contract Term has ended, unless the Contract has been otherwise terminated by the City.

7. DISPUTE RESOLUTION AND CLAIMS PROCEDURES

A. Public Contract Code Section 9204. For purposes of any Public Works Claims filed by a Contractor or Subcontractor (as those terms are defined in Public Contract Code Section 9204) under this Contract, the claims procedures in Public Contract Code Section 9204 ("Section 9204") and the provisions of this Section shall apply.

1. In the event of a Section 9204 Public Works Claim, Contractor may not stop working pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work during the Section 9204 process.
2. Any Public Works Claims not resolved by the Section 9204 procedures (and/or any tort claims) shall be subject to the provisions of the Government Claims Act (Government Code section 810 et seq.).

B. Public Contract Code Section 20104 et al. For purposes of any Public Works Claims of three hundred and seventy-five thousand dollars ($375,000) or less filed by a Contractor or Subcontractor (as those terms are defined in Public Contract Code Section 9204), the claims procedures in Public Contract Code Section 20104.2 and the provisions of this Section shall apply.

1. In the event of a Section 20104 Public Works Claim, Contractor may not stop working pending resolution of the dispute, but must continue to comply with its duty to diligently prosecute the performance and timely completion of the Work during the Section 20104.2 process.
2. Any Public Works Claims not resolved by the Section 20104.2 procedures (and/or any tort claims) shall be subject to the provisions of Section 20104.4 and the Government Claims Act (Government Code section 810 et seq.).

C. For disputes or claims that do not constitute Public Works Claims, City and Contractor agree to comply with the following process:

1. Each Party shall designate a senior management or executive level representative to negotiate any dispute.
2. The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

3. If the issue remains unresolved after ten (10) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiation between the legal counsel for each Party. If the above process fails, the Parties may mutually agree to engage in non-binding mediation or arbitration in which the Parties equally share the costs of any mediator or arbitrator, or may proceed with suit or other remedies, subject to the provisions of subparagraph (5) of this Subsection and other applicable provisions and laws.
4. The alternative dispute resolution process set forth herein is a material condition to Contract and must be exhausted as an administrative remedy prior to either Party initiating legal action.
5. The provisions of the Government Claims Act (Government Code section 810 et seq.) are also required prior to initiating suit against the City.

8. TERMINATION OF AGREEMENT FOR CONVENIENCE

A. The City may, by providing thirty (30) days' advance written notice to Contractor, terminate this Agreement in whole or in part, whenever the City shall determine that such termination is in the best interests of the City, or when it becomes impracticable or impossible to proceed, or because of conditions or events beyond the control of the City. Any such termination shall be affected by delivery to Contractor of a Notice of Termination for Convenience, specifying the extent to which performance of Work under this Agreement is terminated, and the date upon which such termination becomes effective. Upon such termination, the obligations of the Contractor for portions of the Work already performed shall continue.

B. Upon receipt of a Notice of Termination for Convenience, the Contractor shall, unless the notice directs otherwise, do the following:
   1. Immediately discontinue the Work to the extent specified in the notice.
   2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary to complete such portion(s) of the Work that are not to be discontinued.
   3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent that they relate to the performance of the discontinued portion of the Work.
   4. Thereafter do only such Work as may be necessary to preserve and protect the Work already in progress and to protect materials, plants, and equipment on the Project site or in transit thereto.

C. Upon such termination, the Contractor will be paid without duplication for:
   1. Work completed in accordance with the Contract Documents prior to the effective date of the Notice of Termination for Convenience;
   2. Reasonable costs incurred in settlement of terminated contracts with Subcontractors, suppliers and others; and
   3. Reasonable expenses directly attributable to termination.

The Contractor shall submit a final termination settlement proposal to the City no later than ninety (90) days from the effective date of termination, unless extended in writing by the City, upon written request by the Contractor. If the Contractor fails to submit a proposal, the City may determine the amount, if any, due the Contractor as a result of the termination. The City will pay the Contractor the amount it determines is reasonable. If the Contractor disagrees with the amount determined by the City as being reasonable, the Contractor shall provide notice to the City within thirty (30) Days of receipt of payment. Any amount due shall be subject to the dispute resolution provisions set forth in the Contract Documents.

D. Contractor shall include provisions in all of its subcontracts, purchase orders, and other contracts permitting termination for convenience by Contractor on terms that are consistent with this Contract and that afford no greater rights of recovery against Contractor than are afforded to Contractor under this Section 7.

9. TERMINATION FOR CONTRACTOR'S DEFAULT

A. Default. The City may terminate this Contract for Contractor's default as set forth in this Section. The City will consider the Contractor in default of this Contract if, prior to the City's acceptance of the Work, the Contractor:

1. becomes insolvent, assigns its assets for the benefit of its creditors, is unable to pay its debts as they become due, or is otherwise financially unable to complete the Work;
2. abandons the Work by failing to report to the Work site and diligently prosecute the Work to completion;
3. disregards written instructions from the City or materially violates provisions of the Contract Documents;
4. fails to prosecute the Work according to the schedule approved by the Engineer,
5. disregards laws or regulations of any public body having jurisdiction, or
6. commits continuous or repeated violations of regulatory or statutory safety requirements.

Notices, and other written communications regarding default between the Contractor, the City, and the Surety shall be transmitted in accordance with Section 25 ("NOTICES") of this Contract.

B. Notice and Opportunity to Cure. The City will issue a written notice to cure the default to the Contractor and its Surety. The Contractor shall commence satisfactory corrective actions within five (5) Working Days after receipt. If the Contractor fails to commence satisfactory corrective action within five (5) Working Days after receipt of the notice to cure, or to diligently continue satisfactory and timely correction of the default thereafter, the City will consider the Contractor in default of the Contract and:

1. will terminate the Contractor's right to perform under the Contract by issuing a written notice of termination for default to the Contractor and its Surety;
2. may use any materials, equipment, tools or other facilities furnished by the Contractor to secure and maintain the Work site, and
3. may furnish labor, equipment, and materials the City deems necessary to secure and maintain the Job Site;

C. Remedies Cumulative. The provisions of this Section shall be in addition to all other legal rights and remedies available to the City. Termination of this Contract will not relieve the Surety of its obligation for any just claims arising out of the Work performed.

10. PREVAILING WAGE

A. Compliance with State Prevailing Wage Requirements. Pursuant to Labor Code Section 1773, the City has obtained the prevailing rate of per diem wages and the prevailing wage rate for holiday and overtime work applicable in Ventura County, California from the Director of the

Department of Industrial Relations (DIR) for each craft, classification, or type of worker needed to perform the Work required under this Contract. A copy of these prevailing wage rates are on file at the City's Finance Department/Purchasing Division and shall be made available for review to any interested party on request. In addition, a copy of the prevailing rate of per diem wages may be obtained via the internet at: http://www.dir.ca.gov/DLSR/PWD. Contractor and all Subcontractors shall pay not less than said specified State of California rates to all workers employed by them in the execution of the Work contemplated by this Contract, including workers performing Work covered by under Labor Code Sections 1720 and 1720.9. Contractor shall be responsible for using the correct and current prevailing wage rates. Contractor shall be solely responsible for using the correct wage decision or determination and performing accordingly. An error on the part of any awarding body does not relieve the Contractor from the responsibility for payment of the correct prevailing wage.

B. Conflict. It is further expressly agreed by and between the Parties hereto that should there be any conflict between the terms of this Section 10 and the provisions of Exhibit "A", the terms of this Section 10 shall control and nothing herein shall be considered as an acceptance of the terms of Contractor's Submitted Bid Proposal conflicting with the requirements of this Section 10.

C. Payroll Records. Contractor must comply with the provisions of Labor Code sections 1776 and 1812 and all implementing regulations, including without limitation, those set forth in Title 8 of the California Code of Regulations, Section 16000 et seq. (hereinafter the "Regulations"), which are fully incorporated by this reference, including requirements for electronic submission of payroll records to the DIR.

1. Contractor and Subcontractor Obligations. Contractor and each Subcontractor must keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed in connection with the Work. Each payroll record must contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

   a. The information contained in the payroll record is true and correct; and

   b. Contractor or the Subcontractor has complied with the requirements of Labor Code §§ 1771, 1811, and 1815 for any Work performed by its employees on the Project.

2. Certified Record. A certified copy of an employee's payroll record must be made available for inspection or furnished to the employee or his or her authorized representative on request, to City, to the Division of Labor Standards Enforcement, to the Division of Apprenticeship Standards of the DIR, and as further required by the Labor Code.

3. Enforcement. Upon notice of noncompliance with Labor Code § 1776, Contractor or Subcontractor has ten days in which to comply with the requirements of this section. If Contractor or Subcontractor fails to do so within the ten-day period, Contractor or Subcontractor will forfeit a penalty of $100.00 per day, or portion a day, for each worker for whom compliance is required, until strict compliance is achieved. Upon request by the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement, these penalties will be withheld from payments then due to Contractor.

D. Apprentices. Contractor is responsible for compliance with the requirements governing employment and payment of apprentices, as set forth in Labor Code section 1777.5, which is fully incorporated by reference.

E. Notices. Pursuant to Labor Code section 1771.4, Contractor is required to post all Job Site notices, including prevailing wage rates and other notices as required by regulation.

F. Other Labor Requirements. Contractor has the responsibility for and shall comply with all other requirements of California Labor Code Section 1720 et seq., the Regulations, and all other applicable State labor laws. Contractor further acknowledges and agrees that it will be independently responsible for reviewing the applicable laws and regulations and effectuating compliance with those laws. Contractor will require the same of all its Subcontractors.

G. Statutory Penalties. The statutory penalties for failure to pay prevailing wage or to comply with State wage and hour laws will be enforced as follows:

1. Pursuant to Labor Code section 1775, the Contractor and any Subcontractor under it shall forfeit as a penalty to the City not more than two hundred dollars ($200.00), for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate as determined by the Director of the DIR for such work or craft in which such worker is employed for any public work done under this Contract by it or by any Subcontractor under it. The difference between such prevailing wage rate and the amount paid to each worker for each calendar day or portion thereof, for which each worker was paid less than the prevailing wage rate, shall be paid to each worker by the Contractor.
2. The Contractor or Subcontractor shall, as a penalty to the City, forfeit twenty-five dollars ($25) for each worker employed in the execution of this Contract by the respective contractor or Subcontractor for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of this Subsection. In awarding any contract for public work, Contractor must forfeit to City twenty-five dollars ($25.00) per day for each worker who works in excess of the minimum working hours when Contractor does not pay overtime. In accordance with the provisions of Labor Code Sections 1810 et seq., eight (8) hours is the legal working day.

H. DIR Monitoring. Pursuant to Labor Code § 1771.4, the Contract for this Project is subject to compliance monitoring and enforcement by the DIR.

I. DIR Registration. Pursuant to Labor Code sections 1725.5 and 1771.1, the Contractor and its Subcontractors must be registered with the DIR prior to the execution of a contract to perform public works. By entering into this Contract, Contractor represents that it is aware of the registration requirement and is currently registered with the DIR. Contractor shall maintain a current registration for the duration of the Project. Contractor shall further include the requirements of Labor Code sections 1725.5 and 1771.1 in any subcontract and ensure that all Subcontractors are registered at the time this Contract is entered into and maintain registration for the duration of the Project.

11. LIQUIDATED DAMAGES

If Contractor fails to complete the Work within the Contract Time, City will assess liquidated damages in the amount of two hundred fifty dollars ($250) per day for each Calendar Day of unexcused delay in completion, and such liquidated damages may be deducted from City's payments due or to become due to Contractor under this Contract.

12. COMPLIANCE WITH LAWS

Contractor shall comply with all Laws applicable to the performance of the Work required by the Contract Documents, including any rule, regulation, or bylaw governing the conduct or performance of Contractor, its employees, officers, board members, agents, independent contractors, and Subcontractors. Unless otherwise specified in the Contract Documents, all required permits and licenses, including a City business license, shall be held or obtained by the Contractor at its sole expense and prior to commencing any Work hereunder.

13. WORKERS' COMPENSATION CERTIFICATION

Pursuant to Labor Code § 1861, by signing this Contract, Contractor certifies as follows: "I am aware of the provisions of Labor Code § 3700 which require 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 such provisions before commencing the performance of the Work on this Contract."

14. INSURANCE

Contractor shall procure and maintain at its own expense at all times during the period covered by this Contract (and through the one-year guarantee period following the date of City's acceptance of the Project) the following policies of insurance as approved by the City's Risk Manager as set forth in INS-E attached as Exhibit B to this Contract.

15. [RESERVED]

16. TIME OF THE ESSENCE

Time is of the essence in the performance of this Contract.

17. INDEMNIFICATION

A. Notwithstanding the limits of any insurance and to the fullest extent permitted by law, Contractor shall indemnify the City, its elected or appointed officials, officers, agents, volunteers and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities, (hereinafter "Claims or Liabilities") that may be asserted or claimed by any person, firm or entity arising or alleged to arise out of or in connection with the performance of the Work, operations, or activities of Contractor, its agents, employees, Subcontractors, or invitees on the Project, or arising or alleged to arise from the acts or omissions of Contractor hereunder, or arising or alleged to arise from Contractor's performance of or failure to perform any term, provision, covenant or condition of this Contract, but excluding such Claims or Liabilities or portion of such Claims or Liabilities arising or alleged to arise from the active negligence, sole negligence, or willful misconduct of the City, its elected or appointed officials, officers, agents, volunteers, or employees, and in connection therewith:

1. Contractor will defend any action or actions filed in connection with any of said Claims or Liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

2. Contractor will promptly pay any judgment rendered against the City, its elected or appointed officials, officers, agents, volunteers, or employees for any such claims or liabilities arising or alleged to arise out of or in connection with Contractor's (or its agents', employees', Subcontractors' or invitees') performance of or failure to perform such Work, operations or activities hereunder; and Contractor agrees to save and hold the City, its elected or appointed officials, officers, agents, volunteers and employees harmless therefrom;

3. In the event the City, its elected or appointed officials, officers, agents, volunteers, or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising or alleged to arise out of or in connection with the performance of or failure to perform the Work, operation, or activities of Contractor hereunder, Contractor shall pay to the City, its elected or appointed officials, officers, agents, volunteers, or employees, any and all costs and expenses incurred by the City, its elected or appointed officers, officials, agents, volunteers, or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees for counsel acceptable to City;

4. Contractor's duty to defend, indemnify, and hold harmless as set out in this Section shall include any claims, liabilities, obligations, losses, demands, actions, penalties, suits, costs, expenses or damages or injury to persons or property arising or alleged to arise from, in connection with, as a consequence of, or pursuant to any state or federal law or regulation regarding hazardous substances, including but not limited to, the Federal Insecticide, Fungicide and Rodenticide Act ("FIFRA"), Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), Resource Conservation and Recovery Act of 1976 ("RCRA"), the Hazardous and Solid Waste Amendments of 1984, the Hazardous Material Transportation Act, the Toxic Substances Control Act, the Clean Air Act, the Clean Water Act, the California Hazardous Substance Account Act, the California Hazardous Waste Control Law or the PorterCologne Water Quality Control Act, as any of those statutes may be amended from time to time.

B. City will timely notify Contractor upon receipt of any third-party claim relating to the Contract, as required by Public Contract Code § 9201. The Contractor's indemnification and defense obligations pursuant to this Section shall survive the termination of this Contract. Contractor shall require the same indemnification from all Subcontractors.

18. THIRD PARTY CLAIMS

The City shall have full authority to compromise or otherwise settle any claim relating to the Project at any time. The City shall timely notify the Contractor of the receipt of any third-party claim relating to the Project. The City shall be entitled to recover its reasonable costs incurred in providing this notice.

The Contractor shall not have any authority to compromise or otherwise settle any claim relating to the Project; any effort by the Contractor to do so shall be deemed a breach of the Contract, and the City will not participate in any such compromise or settlement. Within five (5) Calendar Days of the date that the Contractor receives any third-party claim relating to this Project, the Contractor shall provide written notice thereof and a copy of the claim to the City Attorney.

19. CONFLICTS OF INTEREST

The Contractor shall not accept any employment or representation during the Contract Term or within twelve (12) months thereafter that is or may likely make the Contractor "financially interested," as provided in Government Code Sections 1090 and 87100, in any decisions made by the City on any matter in connection with which the Contractor has been retained pursuant to the Contract Documents."

20. REPORTS; BOOKS AND RECORDS; AUDIT

A. Upon request by the Project Manager, Contractor shall prepare and submit reports concerning Contractor's performance of the Work required by this Contract.

B. Contractor shall keep such books and records as shall be necessary to perform the work required by this Contract and enable the Project Manager to evaluate the cost and the performance of such Work.

C. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles, and Contractor and its subcontractors shall establish and maintain a financial management system and records that properly accumulate and segregate reasonable, allowable, and allocable incurred Project costs and matching funds by line item for the Project. The Project Manager shall have full and free access to such books and records at all reasonable times, including the right to inspect, copy, audit, and make records and transcripts from such records.

D. Records and supporting documents pertaining to the use of funds paid to Contractor hereunder shall be retained by Contractor and made available to the Project Manager for purposes of performing an audit for a period of five (5) years from the termination of this Contract.

21. NONDISCRIMINATORY EMPLOYMENT

A. The Contractor shall not unlawfully discriminate against any individual based on race, religion or religious creed, color, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, immigration status, citizenship or military and veteran status. The Contractor shall comply with the nondiscrimination mandates of all statutes, ordinances and regulations.

B. For every Subcontractor who will perform Work on the Project, the Contractor shall be responsible for such Subcontractor's compliance with this Section. The Contractor shall include in the written contract between itself and each Subcontractor a copy of the provisions in this Section and a requirement that each Subcontractor shall comply with those provisions. The Contractor shall be required to take all actions necessary to enforce such contractual provisions and ensure Subcontractor's compliance. The Contractor shall diligently take corrective action to halt or rectify any failure to comply.

22. MODIFICATIONS AND AMENDMENTS

This Contract may be modified or amended only by written Change Orders as specified in the Contract Documents or a written instrument signed by both Parties.

23. ENTIRE AGREEMENT

A. This Contract supersedes any and all prior or contemporaneous agreements, either oral or written, between the City and Contractor with respect to the subject matter of this Contract.

B. The Contract Documents contain all of the covenants and agreements between the Parties with respect to the subject matter herein, and each Party acknowledges that no representations, inducements, promises, or agreements have been made by or on behalf of any Party, except those covenants and agreements in this Contract and the Contract Documents incorporated herein.

C. No agreement, statement, or promise with respect to the subject matter of the Contract Documents, which is not contained in the Contract Documents, or in a valid modification or amendment to the Contract Documents, shall be valid or binding on either Party.

24. AMBIGUITIES

This Contract is in all respects intended by each Party hereto to be deemed and construed to have been jointly prepared by the Parties and the Parties hereby expressly agree that any uncertainty or ambiguity existing herein shall not be interpreted against either of them. Except as expressly limited by this paragraph, all of the applicable rules of interpretation of contract shall govern the interpretation of any uncertainty or ambiguity of this Contract. Notwithstanding the foregoing, the Parties agree that Exhibit "A" is attached hereto for reference purposes, and to the extent there are any ambiguities, inconsistencies, or conflicts between the terms of this Contract and Exhibit "A", the terms of this Contract shall control and nothing set forth in Exhibit "A" shall be deemed to supersede any of the provisions of this Contract.

25. NOTICES

A. Any notice to be provided pursuant to this Contract shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the Parties as follows:

TO CITY: City of Oxnard
305 W. Third Street, East Wing, Third Floor
Oxnard, CA 93030

TO CONTRACTOR: CSI Services
P.O Box 271
San Pedro, CA 90733

B. Notices, payments, and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.

C. Either Party, or the surety, may change its address by giving notice in writing to all other parties listed above, and thereafter notices shall be addressed and transmitted to such new address.

26. NON-LIABILITY OF CITY OFFICERS AND EMPLOYEES

No officer or employee of the City shall be personally liable to Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to Contractor or to its successor(s), or for any breach of any obligation of the terms of this Contract.

27. REVIEW BY ATTORNEYS

Each Party hereto has had its attorneys review this Contract and all related documents. Each Party hereto has consulted with its attorneys and has negotiated the terms of this Contract based on such consultation.

28. BONDS

Concurrently with the execution of this Contract by the Contractor, and before the commencement of any Work, Contractor shall furnish to the City a Performance Bond, and a Payment Bond (Labor and Materials Bond) each in an amount equal to one hundred percent (100%) of the Contract Price written on the forms included in the Contract Documents. These bonds must remain in force until the later of (a) the expiration of the one-year guarantee period; or (b) one year from the date of completion of the corrective Work. Such bonds must be issued by a responsible corporate Surety, licensed and authorized to issue such bonds in the State of California.

29. CARE OF WORK

Contractor must adopt reasonable methods during the life of the Contract to furnish continuous protection to the Work, and the equipment, materials, papers, documents, plans, studies, and other components to prevent losses or damages, and will be responsible for all damages, to persons or property, until acceptance of the Work by the City, except those losses or damages as may be caused by the City's own negligence. The performance of the Work by Contractor or the payment of money by the City shall not relieve Contractor from any obligation to correct any incomplete, inaccurate, or defective Work (including the obligation to remedy any defective Work or materials during the one-year guarantee period after the City's acceptance thereof) at no further cost to the City.

30. CAPTIONS AND HEADINGS

The captions and headings contained in this Contract are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

31. OWNERSHIP OF DOCUMENTS

No portion of the Contract Documents may be used for any purpose other than construction of the Project, without prior written consent from City. Contractor is deemed to have conveyed the copyright in any designs, drawings, specifications, Shop Drawings, or other documents (in paper or electronic form) developed by Contractor for the Project, and City will retain all rights to such works, including the right to possession.

32. SUCCESSORS, HEIRS, AND ASSIGNS

Except as otherwise expressly provided herein, this Contract shall be binding upon the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties and, likewise, shall inure to the benefit of the successors, endorsees, assigns, heirs, and personal representatives of each of the Parties. This Contract may not be assigned or transferred by Contractor without the concurrence of the surety and express written consent of the City.

33. GENDER; PLURAL

In this Contract, unless the context clearly requires otherwise, the masculine, feminine and neuter genders and the singular and the plural shall include one another.

34. SEVERABILITY

If any one or more of the sentences, clauses, paragraphs, or sections contained herein is declared invalid, void, or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Contract and shall not affect, impair, or invalidate any of the remaining sentences, clauses, paragraphs, or sections contained herein.

35. GOVERNING LAW

The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the Parties under this Contract, shall be construed pursuant to and in accordance with California law.

36. CUMULATIVE REMEDIES

Except with respect to rights and remedies expressly declared to be exclusive in this Contract, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default of any other default by the other Party.

37. VENUE

All proceedings involving disputes over the terms, provisions, covenants, or conditions contained in this Contract and all proceedings involving any enforcement action related to this Contract shall be initiated and conducted in the applicable court or forum in Ventura County, California.

38. EFFECTIVENESS OF CONTRACT

This Contract shall not be binding upon the City until signed by the authorized representative(s) of Contractor, approved by the City's Risk Manager and as to form by the City Attorney, and executed by the authorized City personnel or the Mayor.

39. REPRESENTATIONS OF PARTIES AND PERSONS EXECUTING CONTRACT

Each of the Parties to this Contract hereby represents that all necessary and appropriate actions of their governing bodies have been taken to make this Contract a binding obligation of each of the Parties hereto. The persons executing this Contract warrant that they are duly authorized to execute this Contract on behalf of and bind the Parties each purports to represent.

40. WAIVER

No delay or omission in the exercise of any right or remedy by a non-defaulting Party on any default under this Contract shall impair such right or remedy or be construed as a waiver. A Party's consent to or approval of any act by the other Party requiring the Party's consent or approval shall not be deemed to waive or render unnecessary the other Party's consent to or approval of any subsequent act. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Contract.

41. INDEPENDENT CONTRACTOR STATUS

Contractor is an independent contractor. All persons working for or under the direction of the Contractor are the Contractor's employees, agents, or subcontractors, and they shall not be deemed agents, servants, or employees of the City.

42. COUNTERPARTS

This Contract may be executed by the Parties in counterparts, and when executed by each of the Parties, each counterpart shall be deemed to be a part of this Contract.

43. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by Law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either Party the Contract shall forthwith be physically amended to make such insertion or correction.

44. ATTORNEY'S FEES

If either Party commences an action against the other Party, whether legal, administrative, or otherwise, arising out of or in connection with this Contract, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

[END OF THIS PAGE – SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have entered into this Contract effective on the date as stated herein and upon signature of all Parties.

CITY OF OXNARD

☒ Luis Mc Arthur, Mayor[1] Date
☐ Purchasing Agent

CSI SERVICES

Frank Colaruotolo, CEO &[2] Secretary Date

ATTEST:

Lourdes A. López, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

Stephen Fischer
City Attorney Date

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000. The Purchasing Agent may execute any authorized agreement up to $200,000.

[2] The City requires the following for any contract:

- For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
- For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
- For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBITS

Exhibit A: **Contractors Bid Proposal.**

Exhibit B: **Form INS-E: Insurance Requirements.**

Exhibit C: **Iran Contracting Act Certification Form completed by Contractor.**

Exhibit D: **[RESERVED]**

Exhibit E: **[RESERVED]**

Exhibit F: **[RESERVED]**

Exhibit G: **Grant of Non-Exclusive Right of Entry Agreement**

Bonds

The corresponding exhibits and forms contained within follow.

EXHIBIT A

BID SCHEDULE

CENTRAL PARK FOUNTAIN RENOVATION PROJECT
SPECIFICATION NO. SD 25-23

Bidder's Company Name: CSI Services

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby declares they have carefully examined the locations of the proposed work, the Plans, the Special Provisions, Bid Item Descriptions, and Contract documents; and hereby proposes to furnish all labor, materials, tools, equipment, supplies and incidentals required to complete the work. All of the aforementioned shall be done in accordance with said Plans, Special Provisions, and other Contract Documents to the satisfaction and under the direction of the City Engineer at the following prices:

BASE AMOUNT:

Item No.	DESCRIPTION	Reference Number	Unit of Measure	Estimated Quantity	Unit Price	Total
1	Mobilization, Demobilization (5% maximum of Total Bid Price)	901-3	LS	1	25,000-	25,000-
2	Erosion Control	903-3	LS	1	10,000-	10,000-
	Demolition and Removals					
3	Utility/Structure Protections	902-4	LS	1	15,000-	15,000-
4	Clearing and Grubbing	904-3	LS	1	9,000-	9,000-
5	Demo Electrical Service Pedestal	931-3	LS	1	1,000-	1,000-
6	Demo Transformer	931-3	LS	1	1,000-	1,000-
7	Demo Fountain Control Panel	931-3	LS	1	500-	500-
8	Demo Surface-Mounted Conduits	931-3	LS	1	2,000-	2,000-
9	Demo Vault Pull Boxes	931-3	LS	1	500-	500-
10	Remove Existing Underwater and Vault Lighting Fixtures	931-3	EA	23	300-	6,900-
11	Demo Concrete Fountain Seating	908-3	LF	268	25-	6,700-
12	Demo Vault Ladder	908-3	EA	1	300-	300-
13	Demo Steel Vault Lid	908-3	LS	1	1,000-	1,000-

14	Remove Steel Beams	908-3	LS	1	1,000-	1,000-
15	Fountain & Seat Inspection for Leaks	907-3	LS	1	3,000-	3,000-
16	Remove 6" x 6" Tiles on Inner Fountain Pool Wall	908-3	SF	415	10-	4,150-
17	Remove Fountain Pool Surfacing	908-3	SF	5000	7-	35,000-
18	Inspection of Chemical Filtering System	951-4	LS	1	500-	500-
19	Test Existing Pumps/Motors	907-3	LS	1	500-	500-
20	Inspection of Control Piping	907-3	LS	1	1,000-	1,000-
21	Service Investigation, Identification, & Testing of Circuits	907-3	LS	1	2,500-	2,500-
			Construction			
22	Earthwork Excavation	905-3	CY	80	100-	8,000-
23	Backfill and Recompaction	905-3	CY	80	100-	8,000-
24	Utilities Trenching	906-3	LF	12	200-	2,400-
25	Construct Vault Floor Sloping	911-4	CY	1.25	2,500-	3,125-
26	Construct and Install Concrete Lid	911-4	CY	9.5	7,000-	7,000-
27	#8 Dowel and Epoxy	911-4	EA	102	100-	10,200-
28	Vault Wall Waterproofing and Subsurface Drainage	914-4	SF	640	15-	9,600-
29	Concrete Mow Strip	911-4	LF	114	100-	11,400-
30	Install Precast Concrete Cap	912-4	LF	268	100-	26,800-
31	Install New Fountain Pool Resurface	913-4	SF	5000	10-	50,000-
32	Replace 6" x 6" Tiles on Inner Fountain Pool Wall	913-4	SF	415	70-	29,050-
33	Irrigation Replacement / Repair	920-4	LS	1	12,000-	12,000-
34	Landscape Replacement / Repair	920-4	LS	1	12,000-	12,000-
35	Miscellaneous Signage	973-4	LS	1	1,500-	1,500-

Electrical						
36	Delegated Fountain Control Design with Control Cabinet	942-4	LS	1	9,000-	9,000-
37	Construct Service Pedestal	936-4	EA	1	6,000-	6,000-
38	Install PDP1 480V / 240V 150A Pump Panel	937-4	EA	1	6,000-	6,000-
39	Install PDP2 208V / 120V 50A Control Panel	937-4	EA	1	7,000-	7,000-
40	Install 200 Amp/3P Circuit Breaker (480V/240V)	938-4	EA	1	1,500-	1,500-
41	Install 150 Amp/3P Circuit Breaker (480V/240V)	938-4	EA	1	900-	900-
42	Install 50 Amp/3P Circuit Breaker (480V/240V)	938-4	EA	1	600-	600-
43	Install 35 Amp/3P Circuit Breaker (480V/240V)	938-4	EA	1	200-	200-
44	Install 15 Amp/3P Circuit Breaker (480V/240V)	938-4	EA	2	100-	200-
45	Install 25 Amp/3P Circuit Breaker (480V/240V)	938-4	EA	2	150-	300-
46	Install 50 Amp/3P Circuit Breaker (208V/120V)	938-4	EA	1	600-	600-
47	Install 20 Amp/1P Circuit Breaker (208V/120V)	938-4	EA	17	100-	1,700-
48	Install 15 Amp/2P Circuit Breaker (208V/120V)	938-4	EA	1	100-	100-
49	Construct 30Kva Nema 3R Transformer	939-4	EA	1	4,000-	4,000-
50	Equipment Grounding	935-4	LS	1	3,000-	3,000-
51	1" PVC Conduit	933-4	LF	587	100-	58,700-

52	1" Liquid-Tight Flex Conduit	933-4	LF	10	100-	1,000-
53	1.5" PVC Conduit	933-4	LF	18	100-	1,800-
54	#12 CU Wire	932-4	LF	1305	2-	2,610-
58	#10 CU Wire	932-4	LF	165	3-	495-
56	#8 CU Wire	932-4	LF	291	4-	1,164-
57	#1/0 CU Wire	932-4	LF	72	15-	1,080-
58	#8 Ground	932-4	LF	459	4-	1,836-
59	#6 Ground	932-4	LF	18	5-	90-
60	Install J Box	934-4	EA	9	500-	4,500-
61	Install New Receptacles (Quad)	934-4	EA	2	1,000-	2,000-
62	Install New Receptacles (Duplex)	934-4	EA	2	1,000-	2,000-
63	Remove and Replace Light Switch	934-4	EA	1	1,000-	1,000-
64	Replace Underwater Lighting Fixture, 175 Watt / 120V	940-4	EA	3	1,000-	3,000-
65	Replace Underwater Fountain People Lighting Fixture, 500 Watt / 120V	940-4	EA	12	2,000-	24,000-
66	Replace Underwater Wet PEM Lighting Fixture, 500 Watt / 120V	940-4	EA	4	2,000-	8,000-
67	Replace Fluorescent Light Fixture, UL Listed for Wet Locations	940-4	EA	4	700-	2,800-
	Mechanical & Plumbing					
68	Construct 650 CFM Exhaust and Supply Mechanical Ventilator Fan	963-4	EA	2	4,500-	9,000-

69	Replace Pump (20 HP)	950-4	EA	1	5,500-	5,500-
70	Replace Pump (7.5 HP)	950-4	EA	2	3,500-	7,000-
71	Replace Pump (15 HP)	950-4	EA	2	4,500-	9,000-
72	Replace Sump Pump (0.5 HP)	962-4	EA	2	2,500-	5,000-
73	Install Emergency Stop Switch for Pumps	950-4	EA	1	3,000-	3,000-
74	Remove and Replace Auto Pump Shutoff	950-4	EA	5	2,000-	10,000-
75	Fan Vent Piping	963-4	LF	10	500-	5,000-
76	Fan Vent Concrete Encasement with 3" Min. Sand Slurry	963-4	CF	7.5	350-	2,625-
77	Reseal Vault Pipe Penetrations	972-4	LS	1	3,500-	3,500-
					BASE BID TOTAL:	534,425.00

ADDITIVE ITEM 1:

Item No.	DESCRIPTION	Reference Number	Unit of Measure	Estimated Quantity	Unit Price	Total
1	**Underwater Lighting Fixture**					
1a	Install LED Underwater Lighting Fixture, 175 Watt / 120V	940-4	EA	3	1,500-	4,500-
1b	Install LED Underwater Fountain People Lighting Fixture, 500 Watt / 120V	940-4	EA	12	2,500-	30,000-
1c	Install LED Underwater PEM Lighting Fixture, 500 Watt / 120V	940-4	EA	4	2,500-	10,000-

ADDITIVE ITEM 2:

Item No.	DESCRIPTION	Reference Number	Unit of Measure	Estimated Quantity	Unit Price	Total
2	**Vault Fluorescent Light Fixture**					
2a	Install LED Fluorescent Light Fixture, UL Listed for Wet Locations	940-4	EA	4	1,000-	4,000-

ADDITIVE ITEM 3:

Item No.	DESCRIPTION	Reference Number	Unit of Measure	Estimated Quantity	Unit Price	Total
3	**Chemical Filter and Chemical Piping Equipment**					
3a	Replace Pool Filter System	951-4	LS	1	5,000-	5,000-
3b	Replace Fountain Control Piping	907-3	LS	1	15,000-	15,000-

TOTAL BID PRICE = TOTAL BASE AMOUNT WITHOUT CONSIDERING ANY AMOUNTS LISTED FOR ADDITIVE ITEMS 1 THROUGH 3

TOTAL BID PRICE IN DIGITS: $ 534,425.00

TOTAL BID PRICE IN WORDS: FIVE HUNDRED THIRTY FOUR THOUSAND FOUR HUNDRED TWENTY FIVE & 00/100

Bidder's Company Name: CSI Services

Signature: _____ Title: President

Print: Frank Colaruotolo Date: 1/7/2025

*** Corrections to mathematical calculations submitted.**

Contract award amount is $602,925.00 which is the total Base Bid Amount total $534,425.00 plus Additive Item#1 $44,500.00, plus Additive Item#2 $4,000.00, plus Additive#3 $20,000.00

EXHIBIT B
FORM INS-E: INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS (WITH BUILDER'S RISK REQUIREMENT)

1. Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.

a) Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $2,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project location or shall be twice the occurrence amount;
b) Business Automobile Liability Insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"
c) If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than $1,000,000, with neither Contractor nor listed subcontractors having less than $500,000 individually. The Professional Liability/Errors and Omissions Insurance must be project specific with at least a one-year extended reporting period, or longer upon request.
d) Course of Construction Insurance providing coverage for "all risks" of loss in an amount not less than the completed value of the project, with City named as Owner and Insured.
e) Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-E. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-E or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages **(this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

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

7. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

- ***Certificates of Insurance***

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

- ***Endorsement Forms***

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-E.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $2,000,000 PRODUCTS COMP/OP AGG. $2,000,000 PERSONAL & ADV. INJURY $2,000,000 EACH OCCURRENCE $2,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract, Course of Construction Insurance				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000 Course of Construction Completed Value of Project

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

SAMPLE

GENERAL LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits
☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ☐ Per Occurrence ☐ Per Claim (which)

APPLICABILITY This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made
☐ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
☐ OWNERS & CONTRACTORS PROTECTIVE ☐ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $ EACH OCCURRENCE	AGGREGATE
☐ GENERAL		
☐ PRODUCTS/COMPLETED OPERATIONS		
☐ PERSONAL & ADVERTISING INJURY		
☐ FIRE DAMAGE		
☐ _____		
☐ _____		

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:
Name: _____
Address: _____
_____
Telephone: (____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   a. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits
☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ☐ Per Occurrence ☐ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

☐ COMMERCIAL AUTO POLICY
☐ BUSINESS AUTO POLICY
☐ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____

Address: _____

Telephone: (____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____

(original signature required)

Telephone: ( ) Date Signed _____

EXHIBIT C

CITY OF OXNARD
CENTRAL PARK FOUNTAIN RENOVATION PROJECT
SPECIFICATION NO. SD 25-23

IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH BID)
Public Contract Code Sections 2202-2208

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to, or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars ($1,000,000) or more to certify, at the time the bid is submitted or the contract is renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of $250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 – CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entity identified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): CSI SERVICES Federal ID Number (or n/a): 61-1696509

By (Authorized Signature):

Frank Colarvotolo / President 1/7/2025

Printed Name & Title of Person Signing: Date Executed

Executed in the County of Los Angeles in the State of California

OPTION No.2 – EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institution engaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature):

Printed Name & Title of Person Signing: Date Executed

Executed in the County of _____ in the State of _____

EXHIBIT D

RESERVED

EXHIBIT E

RESERVED

EXHIBIT F

RESERVED

AGREEMENT MUST BE SIGNED BY AWARDED CONTRACTOR WHEN STAGING IN THE CITY PROPERTY

EXHIBIT G

GRANT OF NON-EXCLUSIVE RIGHT OF ENTRY AND INDEMNIFICATION AGREEMENT BY AND BETWEEN THE CITY OF OXNARD AND _____

THIS RIGHT OF ENTRY AND INDEMNIFICATION AGREEMENT (the "Agreement"), is made and entered into by and between the City of Oxnard, a municipal corporation located in the County of Ventura, State of California, hereinafter referred to as the "Grantor", and _____, a California corporation, hereinafter referred to as the "Grantee." Grantor and Grantee are sometimes hereinafter referred to individually as "Party" and collectively referred to as the "Parties."

RECITALS:

WHEREAS, the Grantor is the owner of certain properties located in the City of Oxnard, Assessor's Parcel Numbers _____, as more particularly described in Attachment A attached hereto and incorporated herein by this reference (the "Subject Properties"); and

WHEREAS, _____ is planning to secure a temporary non-exclusive right of entry on City of Oxnard property; and

WHEREAS,_____ will procure an agreement with a contractor who will utilize the Subject Properties for staging of construction equipment, materials, office trailer, vehicle parking and portable restrooms with overnight security; and

WHEREAS, In light of the benefits of the_____ and in cooperation with _____, the Grantee is requesting the Grantor to permit the Grantee, its contractor and its representatives, servants, employees, subcontractors and other agents to enter upon the Subject Properties in order to use the Subject Properties, as well as any restoration thereto, in accordance with this Agreement; and

WHEREAS, the Grantor desires to permit the Grantee to enter upon and use the Subject Properties in accordance with the terms of this Agreement.

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS, CONDITIONS, AND PROMISES CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

Section 1. GRANT OF RIGHT OF ENTRY

The Grantor hereby grants the Grantee a temporary non-exclusive right of entry upon the Subject Properties for the purpose of use for working, lay down and staging areas, including the right to locate construction trailers and construction equipment, storing equipment and materials; on the areas shaded in pink and blue on Attachment "A" attached hereto and made a part hereof, hereinafter referred to as "staging area."

Section 2. GRANTEE'S RESPONSIBILITY

The Grantee shall, at its sole expense, perform, or cause to be performed, all of the services associated with installing, maintaining, operating, repairing, and removing any improvements necessary to make the Subject Properties suitable for safe use of Subject Properties, in a manner causing the least amount of interference with the Subject Properties, including, without limitation, taking reasonable precautions to assure the safety of persons and property on the Subject Properties.

The Grantee shall erect and maintain temporary fencing and gates with a locking device to enclose the areas of use, and shall remove such fencing and gates at the end of the term of this agreement.

The Grantee shall comply with all applicable laws, ordinances, and regulations pertaining to its use. Grantee is required under State and local law to re-stabilize any disturbed locations within the area of use in order to control soil erosion and sediment runoff at the conclusion of the use of the Subject Properties by Grantee.

The Grantee shall restore, replace, or repair, as applicable, any of the Grantor's property damaged or destroyed as a result of the Grantee's right of entry on the Subject Properties during the Term of this Agreement.

Section 3. INDEMNIFICATION

The Grantee shall indemnify, defend, and hold harmless the Grantor, and its respective officers, officials, employees, agents, representatives, and assigns from and against any and all actions, suits, proceedings, claims, demands, losses, costs, expenses, and judgments for any injury or damage of any type claimed that may involve the Grantee, its contractor and its representatives, servants, employees, subcontractors and other agents resulting from or arising out of this Agreement, except in the case of Grantor's gross negligence or willful misconduct

Section 4. COMPENSATION [Optional]

Monthly Base Rent. During the Initial Term, Grantee shall pay to Grantor as rent for the Subject Properties, the amount of _____ ($____.00) per month (the "Monthly Base Rent"), for a total amount of _____ ($____.00) as compensation for the Right of Entry use of Subject Properties. If Grantee extends the term of the Agreement, Grantee will pay Grantor Five hundred dollars ($___.00) per month and shall continue thereafter per month or for any portion thereof.

Section 5. TERM

The Term of this Agreement shall commence on _____ __,____ (the "Effective Date") and shall terminate on _____ __, ____ (the "Expiration Date").

However, if the work is not completed by the Expiration Date the right of entry shall be extended for thirty (30) calendar days after the Expiration Date of this Agreement, then Grantee's right to enter the Subject Properties for the purpose of performing the work shall expire on that date (the "Extended Expiration Date"). A request to postpone the Expiration Date any further than the Extended Expiration Date shall be accompanied by revised proposed scope of services and shall require the prior written approval of the Grantor.

Section 6. TERMINATION OR SUSPENSION

If Grantee is in violation of the terms and conditions set forth herein, this Agreement may be terminated or suspended provided Grantor provides Grantee with written notice of such violation. Grantee shall have thirty (30) calendar days from the date of receiving said written notice of violation, to cure such violation. In the event Grantee fails to cure the violation within the time prescribed herein, Grantor has the right but not the obligation to terminate this agreement at which point Grantee shall remove all of Grantee's or its contractors equipment materials and fencing, etc. and shall restore the Subject Properties to its original conditions.

Section 7. MODIFICATIONS AND AMENDMENTS

This Agreement may be modified or amended only by a written instrument signed by both parties.

Section 8. NOTICES

a. Any notice to be provided pursuant to this Agreement shall be in writing, and all such notices shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the parties as follows:

To the Grantor: The City of Oxnard [ATTN] Address

To the Grantee: Contractor [ATTN] Address

b. Notices and other documents shall be deemed delivered upon receipt by personal service or as of the second (2nd) day after deposit in the United States mail.

c. The parties to this Agreement may change their notification addresses from time to time upon written notice to one another.

Section 9. INSURANCE

14. INSURANCE

Grantee shall procure and maintain at its own expense at all times during the period covered by this Agreement the following policies of insurance as approved by the City's Risk Manager as set forth in INS-E attached.

Section 10. INTERPRETATION

Any rule of construction which states that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement.

Section 11. WAIVER

a. No waiver of a breach, failure of any condition, or any right or remedy contained in or granted by the provisions of this Agreement shall be effective, unless executed in writing and signed by the party making the waiver.

b. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision.

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

Section 12. CAPTIONS AND HEADINGS

The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content of the provisions described under the respective caption or heading.

Section 13. SEVERABILITY

If any one or more of the sentences, clauses, paragraphs or sections contained herein is declared invalid, void or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall not affect, impair or invalidate any of the remaining sentences, clauses, paragraphs or sections contained herein.

Section 14. GOVERNING LAW

The validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the parties under this Agreement, shall be construed pursuant to and in accordance with California law.

Section 15. RIGHTS AND REMEDIES

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

Section 16. MUTUAL COOPERATION

The parties hereto agree that they will each cooperate with the other, and shall provide such information and documentation as is reasonably necessary to fulfill the intent of this Agreement, and shall make diligent response to inquiries and requests for information from the other party.

Section 17. VENUE

All proceedings involving disputes over the terms, provisions, covenants or conditions contained in this Agreement and all proceedings involving any enforcement action related to this Agreement shall be initiated and conducted in the applicable Court of competent jurisdiction in the County of Ventura, California.

Section 18. ATTORNEY'S FEES

In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this

Agreement, the prevailing party in such suit or proceeding shall be entitled to recover its costs and expenses, including reasonable attorney's fees, and any judgment or decree rendered in such a proceeding shall include an award thereof.

Section 19. AUTHORITY

The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties.

Section 20. COUNTERPARTS

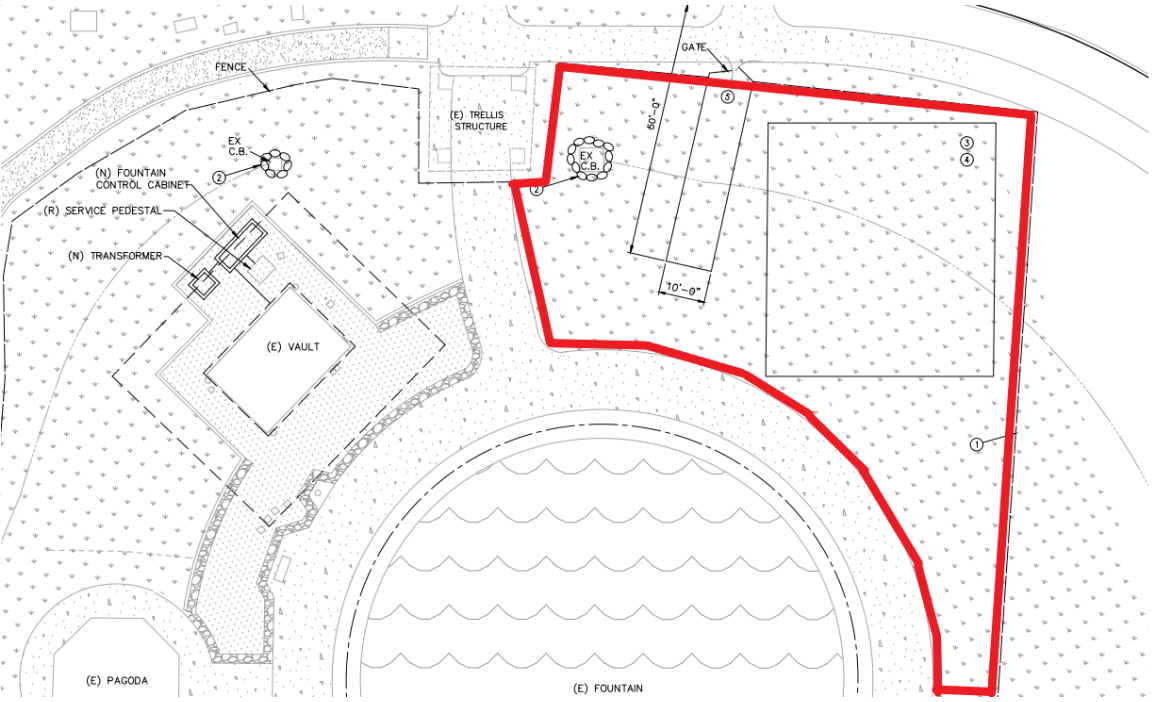
This Agreement may be executed by the parties in counterparts, and when executed by each of the parties, each counterpart shall be deemed to be a part of this Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of _____, 2025.

GRANTOR	**GRANTEE**
The City of Oxnard	_____
By: _____	By: _____
Public Works Director	_____
Approved as to Form	
By: _____ Stephen Fischer City Attorney	

ATTACHMENT A

Parcel Number: 1330300525.



EROSION CONTROL NOTES:

1. CONSTRUCT CONSTRUCTION SITE FENCING 8' HEIGHT WITH PRIVACY GREEN SCREENING.
2. CONSTRUCT INLET PROTECTION PER DETAIL A, SHEET 5
3. STOCKPILE MANAGEMENT PER DETAIL H, SHEET 5
4. MATERIAL STAGING AREA
5. CONSTRUCT STABILIZED CONSTRUCTION ENTRANCE PER DETAIL B, SHEET 5

LANDSCAPE NOTES:

1. CONTRACTOR SHALL EXPOSE ALL IRRIGATION LATERAL LINES AND MAIN LINES DAMAGED AS PART OF THIS WORK AND SHALL CAP ALL DAMAGED IRRIGATION EQUIPMENT TO THE CITY'S SATISFACTION. CONTRACTOR SHALL LEAVE IRRIGATION EQUIPMENT EXPOSED AND FLAG ALL LOCATIONS FOR CITY INSPECTION PRIOR TO BACKFILL. CONTRACTOR SHALL REPAIR AND ADJUST ALL IRRIGATION EQUIPMENT AND SHALL REPLACE DAMAGED LANDSCAPE, HARDSCAPE, TURF AND SHRUB/PERENNIAL PLANTINGS IN KIND.
2. CARE TO BE TAKEN WITH EXISTING PARK IMPROVEMENTS BOTH INSIDE AND OUTSIDE OF CONSTRUCTION FENCING (MOW) STRIPS, SIDEWALKS, BOLLARDS, TRELLIS, IRRIGATION EQUIPMENT, ECT.
3. CONTRACTOR SHALL PROTECT IN PLACE ALL EXISTING TREES. CONTRACTOR TO HAND TRENCH WITHIN THE DRIPLINE OF EXISTING TREES.

GENERAL EROSION CONTROL NOTES:

1. CONTRACTOR TO PROTECT IN PLACE EXISTING UTILITIES, METERS, VAULT, STRUCTURES, FURNISHING, AND ETC. UNLESS OTHERWISE NOTED ON PLANS. NOTIFY ENGINEER IF CONFLICTS EXIST WITH EXISTING UTILITIES.
2. UTILITY LOCATIONS ARE APPROXIMATE BASED ON BEST AVAILABLE DATA. CONTRACTOR TO VERIFY ALL UTILITY LOCATIONS.
3. TURF AND OTHER LANDSCAPING NEEDS TO BE REPLACED AFTER CONSTRUCTION IF DAMAGED.
4. IRRIGATION SHOULD BE UNENCUMBERED WHERE POSSIBLE.
5. TEMPORARY VALVES MAY NEED TO BE INSTALLED TO PREVENT TURF IRRIGATION IN UNWANTED AREAS (STOCKPILE, STAGING, ETC.)

Contractor laydown area to be managed in accordance with the notes and specifications on sheets 4 and 5 of the plans.
Laydown area shown within red highlights.

Bond No. _____

PAYMENT BOND
(LABOR AND MATERIALS)

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), State of California, has awarded to _____
_____
_____("Principal")
(Name and address of Contractor)

a contract (the "Contract") for the Work described as CENTRAL PARK FOUNTAIN RENOVATION PROJECT SPECIFICATION NO. SD 25-23.

WHEREAS, under the terms of the Contract, the Principal is required before entering upon the performance of any Work, to file a good and sufficient Payment Bond with the Agency to secure the claims to which reference is made in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code.

NOW, THEREFORE, we, the undersigned Principal, and _____
_____
_____
(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, and our heirs, assignees, successors, executors and administrators are held and firmly bound, jointly and severally, unto the Agency and all Contractors, Subcontractors, laborers, material suppliers, and other persons employed in the performance of the Contract and referred to in Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code in the penal sum of _____ Dollars ($_____), this amount being not less than one hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to this Work or labor, that the Surety will pay the same in an amount not exceeding the amount hereinabove set forth, and also in case suit is brought upon this Bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing this obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this Bond shall inure to the benefit of any and all persons, companies, and corporations entitled to file claims under Title 3 (commencing with Section 9000) of Part 6 of Division 4 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this Bond.

Upon expiration of the time within which the California Labor Commissioner may serve a civil wage and penalty assessment against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1741, and upon expiration of the time within which a joint labor management committee may commence an action against the principal, any of its Subcontractors, or both the principal and its Subcontractors pursuant to Labor Code Section 1771.2, if the condition of this Bond be fully performed, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

The Surety hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract, including all incorporated documents, shall in any manner affect its obligations on this Bond. The Surety hereby waives notice of any such change, extension, alteration, or addition. Additionally, the Surety hereby waives California Civil Code 2845 and 2849 as well as any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

"Principal"	"Surety"
_____	_____
_____	_____
By: _____	By: _____
Its: _____	Its: _____
	By: _____
	Its_____

(Seal)

Notes: This Bond must be executed and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

Bond No. _____

PERFORMANCE BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of Oxnard ("Agency"), has awarded to _____
_____
_____ ("Principal")
(Name and address of Contractor)

a contract (the "Contract") for the Work described as CENTRAL PARK FOUNTAIN RENOVATION PROJECT SPECIFICATION NO. SD 25-23.

WHEREAS, Principal is required under the terms of the Contract to furnish a Bond for the faithful performance of the Contract.

NOW, THEREFORE, we, the undersigned Principal, and _____
_____
_____,_____
(Name and address of Surety)

a corporation organized and existing under the laws of the State of _____ ("Surety") a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Agency in the penal sum of _____
_____Dollars ($_____), this amount being not less than one hundred percent (100%) of the total Contract Price in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, assignees, successors, executors and administrators, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal, his, her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the Contract and any alteration thereof made as therein provided, on the Principal's part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the Agency, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void one (1) year from the date of recordation of the Notice of Completion for the Project; otherwise, it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorneys' fees, incurred by Agency in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered. Surety hereby waives any statutes of limitation, statutes of repose and laches as they may apply to an action on this Bond.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, including all incorporated documents, or of the Work to be performed thereunder or the Specifications accompanying the same shall in any way affect the Surety's obligations under this Bond. The Surety hereby waives notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications. Surety hereby waives California Civil Code 2845 and 2849. The City is the principal beneficiary of this Bond and has all rights of a party hereto.

IN WITNESS WHEREOF, this instrument has been duly executed by Principal and Surety, on the date set forth below, the name of each party being hereto affixed and these presents duly signed by its undersigned representative(s) pursuant to authority of its governing body.

Dated: _____

"Principal"	"Surety"
_____	_____
_____	_____
By: _____	By: _____
Its: _____	Its: _____
	By: _____
	Its_____

(Seal)

Notes: This Bond must be executed and dated, all Surety signatures must be notarized, and evidence of the authority of any person signing as attorney-in-fact must be attached. Date of Bond must not be before the Effective Date of the Contract. Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of California.

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.5

DATE: February 18, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Multiple Agreements for On-Call Geotechnical Engineering/Environmental Material Testing and Inspection Services Professional Engineering Services.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute the following four Agreements, each with an initial term of one year, from February 19, 2025, to February 18, 2026, with options for exercising four consecutive one-year period extensions ending February 18, 2030, for on-call professional engineering geotechnical services:

1. Agreement 32500365 with Earth Systems Pacific for a total amount not to exceed $1,000,000;
2. Agreement 32500368 with Twining, Inc. for a total amount not to exceed $1,000,000;
3. Agreement 32500375 with Geocon West, Inc. for a total amount not to exceed $1,000,000; and
4. Agreement 32500379 with Shannon & Wilson, Inc. for a total amount not to exceed $1,000,000.

(Public Works and Transportation Committee approved 3-0 on January 28, 2025)

BACKGROUND

The Public Works Department (PW) utilizes professional consulting firms to provide licensed, technical expertise in various disciplines that support the development and implementation of the Capital Improvement Program (CIP) as well as other non-CIP projects. Utilization of these specialized contractors is necessary to provide services that supplement the skills and experience of City staff. It is in the City's interest to have a pool of these professional service contractors available on-call for a range of technical disciplines so that services can be procured, and needed work can proceed, in fairly short order.

Pre-approved on-call professional service agreements reduce the amount of time necessary to procure service contractors and thus facilitate the timely completion of certain categories of CIP and other projects. The specific services covered under this request include but are not limited to, geotechnical/environmental project management, geotechnical feasibility studies and assessments, foundation design and engineering services, regulatory compliance and permitting that includes mandated reporting and documentation, construction materials testing, construction support, hydraulic and groundwater modeling and analysis, sustainability and resource management, and community and stakeholder engagement.

There were four previous geotechnical on-call professional service agreements, and these expired on December 21, 2024, after their three-year contractual term ended. The total value of these agreements was $2,500,000; of this amount, approximately $1,400,000 of work was ordered as tasks.

DISCUSSION

On October 7, 2024, the Purchasing Division issued a Request for Proposal (RFP) 25-33 for On-Call Geotechnical Engineering/Environmental Material Testing and Inspection Services. Outreach efforts included direct notifications to three potential vendors, publication on www.PublicPurchase.com, and posting on the City's Purchasing website. The

deadline for proposal submissions was October 31, 2024, and the City received a total of seven proposals from the following vendors:

Converse Consulting	Earth Systems Pacific	ENGEO Inc
Geocon West, Inc	NV5	Shannon & Wilson
Twining		

A rating and selection process of the proposals was then performed by a panel that consisted of the Engineering Division Manager, two Senior Construction Project Managers, and a Construction Project Manager. Scoring criteria consisted of company profile, qualifications of proposed staff, relevant professional experience and performance, and overall responsiveness that best met the RFP criteria while being consistent with the City's municipal code. After a thorough review, the panel selected four firms (Earth Systems Pacific, Twining, Geocon, and Shannon & Wilson) to recommend for Agreement awards, with a determination that these vendors are the highest-ranked proposers based on the scoring criteria listed in the RFP and is consistent with the City's Purchasing Policy.

Following further review by the Purchasing Division, it was determined that these vendors meet all required City contractual requirements, including possession of a City business tax certificate, insurance certificates, and corporate filing with the California Secretary of State. Therefore, based upon the analysis and research performed to date, staff believes that the four recommended vendors are capable of successfully performing On-Call Professional Services to the City of Oxnard.

Services under these agreements will be acquired on an as-needed basis with individual task orders issued for each identified work requirement (task). These will be issued and managed by the Project Manager (PM) assigned to the project. Once a new requirement is identified, all contractors will be provided the Task Order requirement on which to provide a proposal, if they so choose. The contractors will then submit their respective proposals, which will include a description of the scope of work to be performed, the method by which the consultant plans on completing the work, and a cost and schedule for completion. It is the consultant's responsibility to determine the best and most cost-effective method to complete the work. Once the City has received all proposals, it will review each and make a selection of the contractor based on factors that include price, experience, methods, and schedule.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The total cost for each agreement shall not exceed $1,000,000 per year for up to five years if all extension options are exercised. Funding for individual tasks will be sourced from projects identified in the City Council-approved CIP or on rare occasions for City Divisions with non-CIP project requirements (e.g., Stormwater division or Facilities division maintenance projects). The respective Project Manager will ensure sufficient funding is available in the approved budget for related tasks prior to initiating work orders or services performed. Subsequent fiscal year allocations will be requested during the annual budget process.

COMMITTEE OUTCOME

The Public Works and Transportation Committee approved 3-0 on January 28, 2025 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Morgan Kessler, City Engineer

ATTACHMENTS

1. Agreement 32500365 Earth Systems Pacific

2. Agreement 32500368 Twining, Inc.
3. Agreement 32500375 Geocon West, Inc.
4. Agreement 32500379 Shannon & Wilson, Inc.
5. Prior Agreement Rates and Exhibits

ON-CALL PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OXNARD AND EARTH SYSTEMS PACIFIC

By This On-Call Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of Earth Systems Pacific ("Consultant"), and Consultant agrees to perform the Services for City as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. City and Consultant may be individually referred to as "Party" or collectively as the "Parties."

1. **[INTENIONALLY OMITTED]**

2. **SUMMARY DESCRIPTION OF SERVICES.**
   The Services to be performed pursuant to this agreement are described in the Scope of Services, attached hereto as Exhibit A. The City may require Consultant to perform all or a portion of these services through subsequently issued Task Orders. Task Orders will be in the form of the template described in and attached the Scope of Services. The Services under this Agreement will be provided on an on-call or as needed basis.

   Consultant is not be the exclusive provider of services to the City. The City does not guarantee a specified amount of work under this on-call agreement.

3. **PARTIES.**

   City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030.

   Earth Systems Pacific, corporation/LLC/LLP of the State of California, located at 720 Aerovista Place, Suite A, San Luis Obispo, CA 93401.

4. **TERM OF AGREEMENT:** From: February 19, 2025 To: February 18, 2026

   A. Time is of the essence in this Agreement
   B. The City shall have the option to exercise (4) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and

conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.

C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.

D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. **AGREEMENT AMOUNT NOT TO EXCEED:** $1,000,000.00 [1]

6. **AGREEMENT EXHIBITS**. The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services and Task Order Template
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage Policy
Exhibit F: Iran Contracting Certification

7. **DESIGNATED REPRESENTATIVES.** The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the Services under this Agreement. Additionally, Consultant's Services shall be performed or immediately supervised by the Consultant's Representative:

City Designated Representative	Consultant Designated Representative
Name: Morgan Kessler Title: City Engineer Phone: 805-385-7880 Email: morgan.kessler@oxnard.org Address: 305 W. Third Street, East Wing, 2nd Floor, Oxnard, CA 93030	Name: Anthony Mazzei Title: PE, GE, Senior Vice President Phone: 805-642-6727 Email: tmazzei@earthsystems.com Address: 5917 Olivas Park Dr., Suite F, Ventura, CA 93003

[1] This is not a guaranteed dollar amount. No services or work performed pursuant to a Task Order shall exceed the "Not to Exceed" Amount of the Contract or the agreed upon amount stated in the Task Order.

8. **CONTRACTUAL PREREQUSITIES.** This Agreement must first be executed by the Consultant, after which the Agreement shall be approved as to form by the City Attorney, then executed by the Mayor, or an authorized person on behalf of the City, and if executed by the Mayor shall also be executed by the City Clerk.

    A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by the City.
    B. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.
    C. Consultant shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

9. **CONSULTANT'S SERVICES.**

    A. Consultant shall perform only the type or category of services as set forth in the "Scope of Services," and pursuant to the information contained in the Task Orders issued pursuant to this agreement.
    B. Task Orders may only be modified in writing by the City's Project Manager or Designated Representative.
    C. The Services issued pursuant to a Task Order shall be coordinated with the designated City Project Manager set forth in Exhibit A and are subject to the direction of the City Manager or Department Director. Consultant hereby designates as its Project Manager, the individual identified in Section 7 of this Agreement, as the person responsible for the Services who shall coordinate with City's Project Manager in executing the Scope of Services and Task Order(s) under this Agreement.
    D. Under no circumstances shall the Consultant exceed the amount stated in the City's Task Order or perform additional work or services that are not included in the Task Order

10. **COMPENSATION.** City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and based on the hourly rates and fees set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." Consultant's compensation shall not to exceed amount stated in the Task Order. Under no circumstances shall the Consultant perform work in excess of

the amount stated in the Task Order or the not to exceed amount listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

A. The maximum not to exceed amount for any individual Task Order issued pursuant to this Agreement shall be $100,000.00 per Task Order or $200,000, if the Task Order is associated with an identified and approved Capitol Improvement Project.
B. Annual Rate and Fees adjustments must be requested in writing and shall not exceed 3% and are subject to approval by the City. Annual adjustments shall apply to Task Orders issued after the adjustment is approved and not retroactively to in progress Task Orders.

11. PAYMENT and INVOICES. The City shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the City disputes one or more items in an invoice, the City shall, within thirty (30) days after receipt of such invoice, notify the Consultant of the item(s) being disputed and the reason(s) therefore. The City may withhold payment for such disputed items until resolution of the dispute.

A. Payment Request. Consultant shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **pwengineeringap@oxnard.org**.
B. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontracted Consultants.
C. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant,

Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.

D. **Non-Appropriation of Funds.** Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this Agreement. The initial term, plus any option to extend shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 4(B), then this Agreement shall not be extended.**

13. **MODIFICATION OF AGREEMENT.** This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement or any Task Order issued under this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services under this Agreement or Task Order.

14. **TERMINATION OF AGREEMENT.** City may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 22 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. City shall be liable to Consultant only for work done by Consultant up to and including the date of termination of this Agreement unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant may terminate this

Agreement at any time during the term of the Agreement by giving the City sixty (60) calendar days' prior written notice.

15. [RESERVED]

16. INDEPENDENT CONTRACTOR. Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any Services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such Services shall not materially interfere with the Services the Consultant shall perform for the City. The City retains the right to provide general instructions to and observe the Consultant in the performance of all Services done on behalf of the City.

Consultant and its employees, subconsultants, and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant T and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. LAWFUL PERFORMANCE. Consultant shall abide by all federal, state, and local laws and regulations as may be related to the performance of duties under this Agreement. Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Services under this Agreement.

18. SAFETY REQUIREMENTS. Consultant shall not perform any Services for the City when the Consultant is impaired by alcohol or a controlled substance. When there is

reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the City's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The City reserves the right to issue restraining or cease and desist orders to Consultant when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of Consultant 's work by City shall not operate as a release of the Consultant from such standard of care and workmanship.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

    A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
    (1) Has thoroughly reviewed and considered the services and work to be performed; and
    (2) Has reviewed the issues regarding the Scope of Services and Task Orders to be provided; and
    (3) Has carefully considered how the services and related work should be performed; and
    (4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. **OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY.** City shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by Consultant in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by City.

A. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the Consultant pursuant to or in connection with this Agreement shall be the exclusive property of the City.
B. Deliverables. Consultant shall deliver to the City the studies, plans, specifications, or other documents as are identified in the Scope of Services or Task Order; and Consultant shall, upon completion of all work or termination of this Agreement, submit to the City all information developed in the course of the Consultant 's services. Consultant shall, in such time and in such form as the City may require, furnish reports concerning the status of Services required under this Agreement. Consultant shall, upon request by City and upon completion or termination of this Agreement, deliver to the City all material furnished to Consultant by the City.
C. Records and Inspections**.** The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The City shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.
D. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. Consultant may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for Consultant to perform its obligations pursuant to this Agreement. If Consultant is granted such access to confidential information, Consultant shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.
E. Disclosure of Information. Consultant shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to Consultant by the City or other information to which the

Consultant has had access during the term of this Agreement without the prior written approval of the City's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

F. No Warranty. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Consultant in reliance on any Confidential Information disclosed under this Agreement.

21. **NOTICE OF BREACH AND OPPORTUNITY TO CURE.** Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

22. **NOTICE.** All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 7. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

23. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE.** Except as set forth in Subsection A of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City

(collectively “Claims”) which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

A. The provisions of this Subsection apply only in the event that Consultant is a design professional within the meaning of California Civil Code section 2782.8 (“Design Professional”). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

   (1) Notwithstanding the provisions of Section 23 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, Consultant's duty to indemnify, hold harmless, and defend the City Indemnitees shall be limited to the extent that any Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

   (2) In no event shall the costs of defense charged to Consultant exceed the Consultant’s proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

24. **INSURANCE.** Consultant shall obtain and maintain during the performance of any Services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Consultant shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. **LIVING WAGE REQUIREMENTS**. During the term of this Agreement, Consultant understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, Consultant will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the Services provided for by this Agreement. The Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. **PREVAILING WAGE REQUIREMENTS.** The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees. For further information regarding Prevailing Wage Requirements please refer to Exhibit "E" attached to this Agreement.

    A. To determine if this Agreement is subject to compliance monitoring and enforcement, go to: https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html
    B. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.
    C. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the

two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the Consultant.

27. **IRAN CONTRACTING ACT.** In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any Consultant that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or Services of one million dollars ($1,000,000) or more, must certify, that the Consultant is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

    A Consultant is ineligible to enter into any contract with the City for goods or Services of one million dollars ($1,000,000) or more if the Consultant engages in investment activities in Iran. Consultant must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit F.

28. **SUBCONTRACTING.** If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work or Task Order attached to this Agreement as “Exhibit A”. Consultant is fully responsible for satisfactory completion of all its subcontractors’ work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **CONFLICT OF INTEREST.** Consultant covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Consultant’s Services under this Agreement. Consultant further covenants that in the performance of Services under this Agreement, no officer, employee or agent of Consultant having such interest shall be employed by it. In the event the City determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission

Form 700, Statement of Economic Interests, Consultant shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by Consultant may result in termination of this Agreement by the City.

30. **DISPUTES.** Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the City's Designated Representative, who shall reduce this decision to writing and mail a copy to the Consultant. The decision of the City's Designated Representative shall be final and conclusive unless Consultant requests mediation within ten (10) calendar days. Pending final decision of a dispute, the Consultant shall proceed diligently with the performance of the Agreement and in accordance with the decision of the City's Designated Representative.

31. **DISPUTE RESOLUTION.** Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an Agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until Agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. **ASSIGNMENT.** This Agreement is for the professional Services of Consultant. Any attempt by Consultant to assign the benefits or burdens of this Agreement without the prior written approval of City shall be prohibited and shall be null and void. Consultant 's Services pursuant to this Agreement shall be provided by the Consultant's Designated Representative or directly under his/her supervision, and Consultant shall not assign another to supervise the Consultant 's performance of this Agreement without the prior written approval of City, by and through the City's Designated Representative.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant's risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services or Task Orders set forth in Exhibit "A", Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **AUDIT.** City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant, or for other purposes relating to the Agreement. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of $10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Consultant shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Consultant shall include a copy of this Section in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

36. **ADVERTISING AND PUBLICITY.** Consultant shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

37. **NONDISCRIMINATORY EMPLOYMENT.** Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration

status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section.

38. **COVENANTS AND CONDITIONS.** Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

39. **WAIVER.** City's review or acceptance of, or payment for, work product prepared by Consultant under this Agreement will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Consultant's performance. A waiver by City of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

40. **FORCE MAJEURE.** Neither the Consultant nor the City shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the City.

41. **GOVERNING LAW.** The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.
42. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

43. **INTEGRATED AGREEMENT.** This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal Agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

44. **NO THIRD-PARTY BENEFICIARY.** This Agreement shall not be construed to be an Agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **EXECUTION – COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature or electronic signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

47. **INCONSISTENT OR CONFLICTING TERMS.** In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City and City's Designated Representative unless specifically agreed to in writing, and initiated by City's Designated Representative, as to each additional contractual term or condition.

48. **CAPTIONS AND HEADINGS.** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's Professional Services Agreement terms and conditions and insurance requirements and that Consultant hereby agrees to full compliance.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective on the date as written in Section 4 and upon signature of all Parties.

CITY OF OXNARD

☑Luis Mc Arthur, Mayor[1] Date
☐Jennifer Yates, Purchasing Manager[2]

EARTH SYSTEMS PACIFIC

Anthony Mazzei Date
Senior Vice President

Ji Shin, Date
Corporate Secretary[3]

ATTEST:

Lourdes A. López, City Clerk Date
(Only if Mayor authorizes)

APPROVED AS TO FORM:

Stephen M. Fischer, Date
City Attorney (always required)

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000.

[2] The Purchasing Agent may execute any authorized agreement up to $200,000.

[3] The City requires the following for any contract:
● For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
● For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
● For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.
If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Earth Systems Pacific)

SCOPE OF SERVICES

PROJECT MANAGER: Petros Gazazyan / 805-509-9110 / petros.gazazyan@oxnard.org

The Consultant shall provide the following services at a minimum, and as requested:

1. Perform geotechnical investigations and/or evaluations of impacts to City facilities, infrastructure, as needed during the due diligence phase of property acquisition, and other facilities as requested. The report will include a detailed soils/site investigation and summarization of findings; borings/test pits locations, soil classifications, stratification, recommended soil bearing capacity, construction recommendation regarding excavation, cut and fill, and foundation, pavement, and slab design recommendations. The report will be signed and sealed by a State of California professional engineer. If, in the opinion of the geotechnical engineer, additional borings, testing, or data is required to adequately evaluate subsurface conditions, the geotechnical engineer shall notify the City before the start and completion of boring tests and leaving the site.

2. Review and/or development of geotechnical mitigation measures based on new or revised loading conditions on underground pipelines, facilities, and structures.

3. Work with the City's on-call Structural Engineer, upon Project Manager request, to provide geotechnical engineering services of City facilities, infrastructure, and other facilities during the initial assessment/inventory phase of major disaster post-event activities.

4. Assist the on call Structural Engineer with limited-scope feasibility assessments at the request of the City's Project Manager.

5. Provide geotechnical soil sampling, testing, and recommendations. All drilling and sampling operations for both disturbed and undisturbed samples shall be in accordance with recommended ASTM standards and other procedures as necessary to produce the information required for the report(s). The samples shall be preserved and field logs prepared either by a geotechnical engineer or by an experienced soil technician acting under the supervision of the geotechnical engineer. Before commencing any geotechnical investigation, the consultant will review and develop the number of borings needed, along with their location and depth.

6. Provide geotechnical design review services for capital projects. Provide general, technical consultation to City staff involved in design review and construction overview of capital projects.

7. As part of this annual contract, the successful proposers may be requested to respond on an emergency basis for foundation assessments immediately after a catastrophic event.

8. Attend project coordination meetings when requested by the City's Project Manager.

9. The Consultant shall secure all required City Permits prior to initiating any boring tests.

10. The geotechnical engineer shall contact and coordinate with all utility companies for information regarding buried utilities and structures, shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the geotechnical engineer's entry. Such restoration shall include, but not be limited to:

    a. Backfilling of borings, patching of slabs and pavements, and repair of lawns and plantings.
    b. Each boring should be plugged temporarily, pending additional groundwater readings if additional groundwater testing is necessary. At the completion of the groundwater readings, the boring shall be permanently plugged, including patching of slabs and pavements if required.
    c. When subsequent subsidence at the conventional backfilled holes could create a hazard, all boring and coring holes shall be grouted to the surface.

General categories and subcategories

Consultant must be ready to provide any of the following services or complete tasks as requested by the City when a task order is issued by a Project Manager. This list is not intended to be exhaustive, but rather should be a guide to the tasks that would typically be asked of a consultant selected under this subcategory for geotechnical engineering, hazardous material evaluation and material testing.

Subcategory 1:

Surface Exploration and Investigation for Geologic Setting, Soil and Geologic Conditions, Groundwater, Geologic Hazards, Seismicity, Site – Specific Ground Motion Hazard Analysis, Site Specific Shear Wave Velocity, etc. Liquefaction Potential, Soil Stabilization, Slope Stability, Earthquake-Induced Flooding and Oil Field & Methane Potential.

Typical tasks associated with this subcategory include, but not limited:

- Exploratory drilling
- Soil borings and sampling
- Percolation test
- Pavement Index Test
- Delineation/identification of subsurface contamination
- Type of contamination
- Geophysical explorations
- Groundwater investigations
- Soil stabilization through installation of stone columns in areas of high groundwater/liquefaction or any other method
- Rock/pavement Coring

Subcategory 2:

<u>Soil Classification and Laboratory Testing</u>

- Typical tasks associated with this subcategory include:
    - Classification of soil and rock types
    - Shear strength, expansion potential, and compressibility
    - Site Preparation
    - Comprehensive soils engineering services including all hazardous material determination including complete environmental assessment phase I & II.

<u>Construction Material & Laboratory Testing Scope of Services</u>

- Typical tasks associated with this category include, but not limited to:
    - Testing services as assigned for complete projects/tasks, before predesign, design & construction, during bid, during construction, and post construction. Assist the City in obtaining any all required permits related to this Service.
    - Inspection services, including but not limited to, specialty construction, grading deputy & deputy inspector and welding inspector before construction, during construction, and post construction; and including any requirements to provide inspections and testing at material manufacturing locations; as assigned for

complete project/tasks.

- ○ Obtain approval of any required permits, City, County, and State for this service.
- ○ Provide quality control.
- ○ Provide cost estimates for all related services to perform project/task order.
- ○ Perform analysis and provide reports of any and all samples of soils and materials, compaction results, and inspection results per project/task.
- ○ Review and assist in answering any RFI (Request for Information) that may be related to such samples and testing and inspection services. Also, review change order and provide recommendations.
- ○ Maintain good record keeping.
- ○ Provide a schedule of each task, overall schedule, and reporting process.
- ○ Keep communication as required with City staff and consultants.
- ○ Any other related duties as required by City staff related to these services.

The following are the examples of services, but not limited to:

- ● Nuclear gauge testing (soils and asphalt)
- ● Sand cone
- ● Sand equivalents
- ● Cone penetration Test
- ● Percolation tests
- ● Geophysical services such as surface wave measurements & others
- ● Concrete components and mix design
- ● Concrete/asphalt checking of production equipment and procedures concrete placement, curing and hardened specimens.
- ● Welding & rebar welding
- ● High strength bolts
- ● Data modeling

SERVICE OVERVIEW

The Consultant must have access to qualified, trained and, where required by the Code or government official certified and/or licensed personnel to accomplish these services on an on call as needed basis. Consultant must be able to provide such personnel in a timely manner, usually within a 24-48-hour window, but may on occasion need to provide on a call-out basis. The Consultant shall be responsible for the submittal and approval of its qualified personnel and procedures to be used under this Agreement to City staff prior to any initial work taking place under this Agreement. The Consultant shall be responsible for providing any and all copies of licenses, certifications and other such required documentation of proof of qualification, training and licensing of personnel to be used under this Agreement. Welding Inspector(s) must have excellent knowledge of welding processes including, but not limited to: Shielded Metal Arc Welding (SMAW), Gas Tungsten Arc Weld (GTAW) and Gas Metal Arc Welding (GMAW), Flux-Cored Arc Welding (FCAW), Plasma Arc Cutting (PAC), Submerged Arc Welding (SAW), One Sided Submerged Welding (OSW), Laser Beam Welding (LBW), Electroslag Welding (ESW), Resistance, brazing and soldering, oxygen and acetylene cutting; have ability to interpret codes and manufacturing standards American Welding Society (AWS), American Society of Mechanical Engineers (ASME), American Iron & Steel Institute (AISI), American National Standards Institute (ANSI), American Proficiency Testing (API), 1104,0831.1, AWS DI.I, ASME IX, V, VIII, and II A, B, C, E; Boiler and pressure vessel code; and American Society of Testing Materials (ASTM); vast knowledge of welding drawings, symbols, welding procedures, qualifications, welding specifications, NDE methods, PT, Magnetic Particle Testing (MT). Radiography Testing (RT), and Ultrasonic Testing (UT) Personnel to be used for this Service must be listed as Senior Certified Welding Inspection (SCWI), Certified Welding Inspector (CWI) or Certified Associate Welding Inspector (CAWI), as required for the assigned work scope, with the applicable licenses or certifications provided.

City of Oxnard

Insert Department Name

305 West Third Street, East Wing Oxnard, California 93030

TASK ORDER

All Task Orders must include a copy of the vendor proposal/estimate

Task Order No.:	Agreement No.:
Task Order NTE Amount:	Agreement NTE Amount:
City Purchase Order No.:	Agreement Type:
Prime Consultant:	Subconsultant(s):

PROJECT TITLE OR SPECIFICATION NO.:

PROJECT DESCRIPTION:

DESCRIPTION OF SERVICES TO BE PERFORMED UNDER THIS TASK ORDER:

TIME FOR COMPLETION OF SERVICES UNDER THIS TASK ORDER:

COMPENSATION FOR SERVICES SHALL NOT EXCEED THE TASK ORDER NTE AMOUNT.

City Project Manager:

Consultant Project Manager:

Services under this Task Order shall not proceed until this Task Order is executed by the City and Consultant and the City issues a Notice to Proceed. This Task Order may only be modified in writing and subject to City approval. Consultant shall not exceed the scope of the task order or NTE amount.

City of Oxnard		[Consultant]	
[designated rep]	Date	[Name & Title]	Date
Insert Department Assistant Director/Director	Date	[Name & Title]	Date

Account Number and Project Number	*Example 1011234-53200-CXXXX*

COST PROPOSAL

SCHEDULE OF COMPENSATION

PERSONNEL	HOURLY RATE
Principal Professional	$245.00
Associate Professional	$230.00
Senior Professional	$215.00
Project Professional	$190.00
Staff Professional	$170.00
Certified Welding Inspector, Prevailing Wage*	$170.00
Field Services Supervisor	$165.00
Non-Destructive Testing (NDT) Inspector	$160.00
Certified Welding Inspector	$160.00
Special Inspector, Prevailing Wage*	$155.00
Technical Assistant	$145.00
Technician, Prevailing Wage*	$140.00
Special Inspector	$130.00
Technician	$115.00
Clerical/Administrative	$100.00

1. Nuclear gauge charge: $15.00/hour.
2. Minimum report charge: $450.00. Posting of electronic documents to project websites will be charged at clerical/administrative services rate.
3. Fees for depositions, hearings, and/or court appearances (as Expert Witness) are listed on a supplemental fee schedule.

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Earth Systems Pacific)

INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of $1,000,000, with neither Consultant nor listed subconsultants having less than $500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

1/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG . $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
❒ COMMERCIAL GENERAL LIABILITY ❒ Claims Made
❒ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
❒ OWNERS & CONTRACTORS PROTECTIVE ❒ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
❒ GENERAL		
❒ PRODUCTS/COMPLETED OPERATIONS		
❒ PERSONAL & ADVERTISING INJURY		
❒ FIRE DAMAGE		
❒ _____		
❒ _____		

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____
Address: _____
_____
Telephone: (_____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)
Telephone: (____) _____ Date Signed: _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Earth Systems Pacific)

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard Consultant/Professional Services contracts that may be governed by the Living Wage Policy.

A. Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

D. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2024

Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. This hourly rate shall be adjusted on July 1, 2025, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

c. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Earth Systems Pacific)

PREVAILING WAGE

1. Consultant acknowledges that the Project defined in the Agreement between Consultant and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Consultant shall perform the Project as a public work. Consultant shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

3. Consultant is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).

4. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Consultant shall, as a penalty to City, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Consultant or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. Consultant shall comply with Labor Code Section 1776, which requires Consultant and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.

6. Consultant shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Consultant may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Consultant must immediately notify City.

8. Consultant is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.

9. Consultant acknowledges that 8 hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810.

10. Consultant shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Consultant shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Consultant's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. Consultant shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Consultant shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Consultant shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, Consultant shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Consultant, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Consultant under this Section shall survive Agreement termination.

EXHIBIT F
PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Earth Systems Pacific)

IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)
Public Contract Code Sections 2202-2208

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to,or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars ($1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of $250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entityidentified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engagedin investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

OPTION No.2 - EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institutionengaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

ON-CALL PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OXNARD AND TWINING, INC.

By This On-Call Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of Twining, Inc. ("Consultant"), and Consultant agrees to perform the Services for City as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. City and Consultant may be individually referred to as "Party" or collectively as the "Parties."

1. **[INTENIONALLY OMITTED]**

2. **SUMMARY DESCRIPTION OF SERVICES.**
   The Services to be performed pursuant to this agreement are described in the Scope of Services, attached hereto as Exhibit A. The City may require Consultant to perform all or a portion of these services through subsequently issued Task Orders. Task Orders will be in the form of the template described in and attached the Scope of Services. The Services under this Agreement will be provided on an on-call or as needed basis.

   Consultant is not be the exclusive provider of services to the City. The City does not guarantee a specified amount of work under this on-call agreement.

3. **PARTIES.**

   City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030.

   Twining, Inc., a corporation/LLC/LLP of the State of California, located at 4811 Airport Plaza Drive #220, Long Beach, CA 90815.

4. **TERM OF AGREEMENT:** From: February 19, 2025 To: February 18, 2026.

   A. Time is of the essence in this Agreement
   B. The City shall have the option to exercise (4) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and

conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.

C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.

D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. **AGREEMENT AMOUNT NOT TO EXCEED:** $1,000,000.00 [1]

6. **AGREEMENT EXHIBITS**. The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A:	Scope of Services and Task Order Template
Exhibit B:	Schedule of Compensation
Exhibit C:	Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D:	Living Wage Policy
Exhibit E:	Prevailing Wage Policy
Exhibit F:	Iran Contracting Certification

7. **DESIGNATED REPRESENTATIVES.** The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the Services under this Agreement. Additionally, Consultant's Services shall be performed or immediately supervised by the Consultant's Representative:

City Designated Representative	Consultant Designated Representative
Name: Morgan Kessler Title: City Engineer Phone: 805-385-7880 Email: morgan.kessler@oxnard.org Address: 305 W. Third Street, East Wing, 2nd Floor, Oxnard, CA 93030	Name: Jeff Tawakoli Title: PE, Project Manager Phone: 805-827-0742 Email: jtawakoli@twininginc.com Address: 1879 Portola Rd., Ste G, Ventura, CA 93003

[1] This is not a guaranteed dollar amount. No services or work performed pursuant to a Task Order shall exceed the "Not to Exceed" Amount of the Contract or the agreed upon amount stated in the Task Order.

8. **CONTRACTUAL PREREQUSITIES.** This Agreement must first be executed by the Consultant, after which the Agreement shall be approved as to form by the City Attorney, then executed by the Mayor, or an authorized person on behalf of the City, and if executed by the Mayor shall also be executed by the City Clerk.

    A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by the City.
    B. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.
    C. Consultant shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

9. **CONSULTANT'S SERVICES.**

    A. Consultant shall perform only the type or category of services as set forth in the "Scope of Services," and pursuant to the information contained in the Task Orders issued pursuant to this agreement.
    B. Task Orders may only be modified in writing by the City's Project Manager or Designated Representative.
    C. The Services issued pursuant to a Task Order shall be coordinated with the designated City Project Manager set forth in Exhibit A and are subject to the direction of the City Manager or Department Director. Consultant hereby designates as its Project Manager, the individual identified in Section 7 of this Agreement, as the person responsible for the Services who shall coordinate with City's Project Manager in executing the Scope of Services and Task Order(s) under this Agreement.
    D. Under no circumstances shall the Consultant exceed the amount stated in the City's Task Order or perform additional work or services that are not included in the Task Order

10. **COMPENSATION.** City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and based on the hourly rates and fees set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." Consultant's compensation shall not to exceed amount stated in the Task Order. Under no circumstances shall the Consultant perform work in excess of the amount stated in the Task Order or the not to exceed amount listed in Section 5

of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

A. The maximum not to exceed amount for any individual Task Order issued pursuant to this Agreement shall be $100,000.00 per Task Order or $200,000, if the Task Order is associated with an identified and approved Capitol Improvement Project.
B. Annual Rate and Fees adjustments must be requested in writing and shall not exceed 3% and are subject to approval by the City. Annual adjustments shall apply to Task Orders issued after the adjustment is approved and not retroactively to in progress Task Orders.

11. PAYMENT and INVOICES. The City shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the City disputes one or more items in an invoice, the City shall, within thirty (30) days after receipt of such invoice, notify the Consultant of the item(s) being disputed and the reason(s) therefore. The City may withhold payment for such disputed items until resolution of the dispute.

A. Payment Request. Consultant shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **pwengineeringap@oxnard.org**.
B. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontracted Consultants.
C. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant,

Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.

D. **Non-Appropriation of Funds.** Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this Agreement. The initial term, plus any option to extend shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 4(B), then this Agreement shall not be extended.**

13. **MODIFICATION OF AGREEMENT.** This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement or any Task Order issued under this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services under this Agreement or Task Order.

14. **TERMINATION OF AGREEMENT.** City may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 22 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. City shall be liable to Consultant only for work done by Consultant up to and including the date of termination of this Agreement unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant may terminate this

Agreement at any time during the term of the Agreement by giving the City sixty (60) calendar days' prior written notice.

15. [RESERVED]

16. INDEPENDENT CONTRACTOR. Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any Services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such Services shall not materially interfere with the Services the Consultant shall perform for the City. The City retains the right to provide general instructions to and observe the Consultant in the performance of all Services done on behalf of the City.

Consultant and its employees, subconsultants, and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant T and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. LAWFUL PERFORMANCE. Consultant shall abide by all federal, state, and local laws and regulations as may be related to the performance of duties under this Agreement. Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Services under this Agreement.

18. SAFETY REQUIREMENTS. Consultant shall not perform any Services for the City when the Consultant is impaired by alcohol or a controlled substance. When there is

reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the City's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The City reserves the right to issue restraining or cease and desist orders to Consultant when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of Consultant 's work by City shall not operate as a release of the Consultant from such standard of care and workmanship.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

    A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
    (1) Has thoroughly reviewed and considered the services and work to be performed; and
    (2) Has reviewed the issues regarding the Scope of Services and Task Orders to be provided; and
    (3) Has carefully considered how the services and related work should be performed; and
    (4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. **OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY.** City shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by Consultant in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by City.

A. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the Consultant pursuant to or in connection with this Agreement shall be the exclusive property of the City.
B. Deliverables. Consultant shall deliver to the City the studies, plans, specifications, or other documents as are identified in the Scope of Services or Task Order; and Consultant shall, upon completion of all work or termination of this Agreement, submit to the City all information developed in the course of the Consultant 's services. Consultant shall, in such time and in such form as the City may require, furnish reports concerning the status of Services required under this Agreement. Consultant shall, upon request by City and upon completion or termination of this Agreement, deliver to the City all material furnished to Consultant by the City.
C. Records and Inspections. The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The City shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.
D. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. Consultant may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for Consultant to perform its obligations pursuant to this Agreement. If Consultant is granted such access to confidential information, Consultant shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.
E. Disclosure of Information. Consultant shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to Consultant by the City or other information to which the

Consultant has had access during the term of this Agreement without the prior written approval of the City's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

F. No Warranty. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Consultant in reliance on any Confidential Information disclosed under this Agreement.

21. **NOTICE OF BREACH AND OPPORTUNITY TO CURE.** Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

22. **NOTICE.** All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 7. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

23. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE.** Except as set forth in Subsection A of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City

(collectively “Claims”) which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

A. The provisions of this Subsection apply only in the event that Consultant is a design professional within the meaning of California Civil Code section 2782.8 (“Design Professional”). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

   (1) Notwithstanding the provisions of Section 23 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, Consultant's duty to indemnify, hold harmless, and defend the City Indemnitees shall be limited to the extent that any Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

   (2) In no event shall the costs of defense charged to Consultant exceed the Consultant’s proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

24. **INSURANCE.** Consultant shall obtain and maintain during the performance of any Services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Consultant shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. **LIVING WAGE REQUIREMENTS**. During the term of this Agreement, Consultant understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, Consultant will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the Services provided for by this Agreement. The Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. **PREVAILING WAGE REQUIREMENTS.** The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees. For further information regarding Prevailing Wage Requirements please refer to Exhibit "E" attached to this Agreement.

    A. To determine if this Agreement is subject to compliance monitoring and enforcement, go to: https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html
    B. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.
    C. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the

two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the Consultant.

27. **IRAN CONTRACTING ACT.** In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any Consultant that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or Services of one million dollars ($1,000,000) or more, must certify, that the Consultant is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

    A Consultant is ineligible to enter into any contract with the City for goods or Services of one million dollars ($1,000,000) or more if the Consultant engages in investment activities in Iran. Consultant must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit F.

28. **SUBCONTRACTING.** If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work or Task Order attached to this Agreement as “Exhibit A”. Consultant is fully responsible for satisfactory completion of all its subcontractors’ work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **CONFLICT OF INTEREST.** Consultant covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Consultant’s Services under this Agreement. Consultant further covenants that in the performance of Services under this Agreement, no officer, employee or agent of Consultant having such interest shall be employed by it. In the event the City determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission

Form 700, Statement of Economic Interests, Consultant shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by Consultant may result in termination of this Agreement by the City.

30. **DISPUTES.** Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the City's Designated Representative, who shall reduce this decision to writing and mail a copy to the Consultant. The decision of the City's Designated Representative shall be final and conclusive unless Consultant requests mediation within ten (10) calendar days. Pending final decision of a dispute, the Consultant shall proceed diligently with the performance of the Agreement and in accordance with the decision of the City's Designated Representative.

31. **DISPUTE RESOLUTION.** Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an Agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until Agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. **ASSIGNMENT.** This Agreement is for the professional Services of Consultant. Any attempt by Consultant to assign the benefits or burdens of this Agreement without the prior written approval of City shall be prohibited and shall be null and void. Consultant 's Services pursuant to this Agreement shall be provided by the Consultant's Designated Representative or directly under his/her supervision, and Consultant shall not assign another to supervise the Consultant 's performance of this Agreement without the prior written approval of City, by and through the City's Designated Representative.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant's risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services or Task Orders set forth in Exhibit "A", Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **AUDIT.** City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant, or for other purposes relating to the Agreement. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of $10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Consultant shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Consultant shall include a copy of this Section in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

36. **ADVERTISING AND PUBLICITY.** Consultant shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

37. **NONDISCRIMINATORY EMPLOYMENT.** Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration

status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section.

38. **COVENANTS AND CONDITIONS.** Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

39. **WAIVER.** City's review or acceptance of, or payment for, work product prepared by Consultant under this Agreement will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Consultant's performance. A waiver by City of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

40. **FORCE MAJEURE.** Neither the Consultant nor the City shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the City.

41. **GOVERNING LAW.** The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.
42. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

43. **INTEGRATED AGREEMENT.** This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal Agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

44. **NO THIRD-PARTY BENEFICIARY.** This Agreement shall not be construed to be an Agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **EXECUTION – COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature or electronic signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

47. **INCONSISTENT OR CONFLICTING TERMS.** In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City and City's Designated Representative unless specifically agreed to in writing, and initiated by City's Designated Representative, as to each additional contractual term or condition.

48. **CAPTIONS AND HEADINGS.** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's Professional Services Agreement terms and conditions and insurance requirements and that Consultant hereby agrees to full compliance.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective on the date as written in Section 4 and upon signature of all Parties.

CITY OF OXNARD

☑Luis Mc Arthur, Mayor[1] Date
☐Jennifer Yates, Purchasing Manager[2]

ATTEST:

Lourdes A. López, City Clerk Date
(Only if Mayor authorizes)

APPROVED AS TO FORM:

Stephen M. Fischer, Date
City Attorney (always required)

TWINING, INC.

Linas Vitkus, PE, GE Date
President

Steve Schiffer, Date
Chief Revenue Officer[3]

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000.

[2] The Purchasing Agent may execute any authorized agreement up to $200,000.

[3] The City requires the following for any contract:
● For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
● For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
● For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.
If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Twining, Inc.)

SCOPE OF SERVICES

PROJECT MANAGER: Petros Gazazyan / 805-509-9110 / petros.gazazyan@oxnard.org

The Consultant shall provide the following services at a minimum, and as requested:

1. Perform geotechnical investigations and/or evaluations of impacts to City facilities, infrastructure, as needed during the due diligence phase of property acquisition, and other facilities as requested. The report will include a detailed soils/site investigation and summarization of findings; borings/test pits locations, soil classifications, stratification, recommended soil bearing capacity, construction recommendation regarding excavation, cut and fill, and foundation, pavement, and slab design recommendations. The report will be signed and sealed by a State of California professional engineer. If, in the opinion of the geotechnical engineer, additional borings, testing, or data is required to adequately evaluate subsurface conditions, the geotechnical engineer shall notify the City before the start and completion of boring tests and leaving the site.

2. Review and/or development of geotechnical mitigation measures based on new or revised loading conditions on underground pipelines, facilities, and structures.

3. Work with the City's on-call Structural Engineer, upon Project Manager request, to provide geotechnical engineering services of City facilities, infrastructure, and other facilities during the initial assessment/inventory phase of major disaster post-event activities.

4. Assist the on call Structural Engineer with limited-scope feasibility assessments at the request of the City's Project Manager.

5. Provide geotechnical soil sampling, testing, and recommendations. All drilling and sampling operations for both disturbed and undisturbed samples shall be in accordance with recommended ASTM standards and other procedures as necessary to produce the information required for the report(s). The samples shall be preserved and field logs prepared either by a geotechnical engineer or by an experienced soil technician acting under the supervision of the geotechnical engineer. Before commencing any geotechnical investigation, the consultant will review and develop the number of borings needed, along with their location and depth.

6. Provide geotechnical design review services for capital projects. Provide general, technical consultation to City staff involved in design review and construction overview of capital projects.

7. As part of this annual contract, the successful proposers may be requested to respond on an emergency basis for foundation assessments immediately after a catastrophic event.

8. Attend project coordination meetings when requested by the City's Project Manager.

9. The Consultant shall secure all required City Permits prior to initiating any boring tests.

10. The geotechnical engineer shall contact and coordinate with all utility companies for information regarding buried utilities and structures, shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the geotechnical engineer's entry. Such restoration shall include, but not be limited to:

    a. Backfilling of borings, patching of slabs and pavements, and repair of lawns and plantings.
    b. Each boring should be plugged temporarily, pending additional groundwater readings if additional groundwater testing is necessary. At the completion of the groundwater readings, the boring shall be permanently plugged, including patching of slabs and pavements if required.
    c. When subsequent subsidence at the conventional backfilled holes could create a hazard, all boring and coring holes shall be grouted to the surface.

General categories and subcategories

Consultant must be ready to provide any of the following services or complete tasks as requested by the City when a task order is issued by a Project Manager. This list is not intended to be exhaustive, but rather should be a guide to the tasks that would typically be asked of a consultant selected under this subcategory for geotechnical engineering, hazardous material evaluation and material testing.

Subcategory 1:

Surface Exploration and Investigation for Geologic Setting, Soil and Geologic Conditions, Groundwater, Geologic Hazards, Seismicity, Site – Specific Ground Motion Hazard Analysis, Site Specific Shear Wave Velocity, etc. Liquefaction Potential, Soil Stabilization, Slope Stability, Earthquake-Induced Flooding and Oil Field & Methane Potential.

Typical tasks associated with this subcategory include, but not limited:

- Exploratory drilling
- Soil borings and sampling
- Percolation test
- Pavement Index Test
- Delineation/identification of subsurface contamination
- Type of contamination
- Geophysical explorations
- Groundwater investigations
- Soil stabilization through installation of stone columns in areas of high groundwater/liquefaction or any other method
- Rock/pavement Coring

Subcategory 2:

<u>Soil Classification and Laboratory Testing</u>

- Typical tasks associated with this subcategory include:
    - Classification of soil and rock types
    - Shear strength, expansion potential, and compressibility
    - Site Preparation
    - Comprehensive soils engineering services including all hazardous material determination including complete environmental assessment phase I & II.

<u>Construction Material & Laboratory Testing Scope of Services</u>

- Typical tasks associated with this category include, but not limited to:
    - Testing services as assigned for complete projects/tasks, before predesign, design & construction, during bid, during construction, and post construction. Assist the City in obtaining any all required permits related to this Service.
    - Inspection services, including but not limited to, specialty construction, grading deputy & deputy inspector and welding inspector before construction, during construction, and post construction; and including any requirements to provide inspections and testing at material manufacturing locations; as assigned for

complete project/tasks.

- ○ Obtain approval of any required permits, City, County, and State for this service.
- ○ Provide quality control.
- ○ Provide cost estimates for all related services to perform project/task order.
- ○ Perform analysis and provide reports of any and all samples of soils and materials, compaction results, and inspection results per project/task.
- ○ Review and assist in answering any RFI (Request for Information) that may be related to such samples and testing and inspection services. Also, review change order and provide recommendations.
- ○ Maintain good record keeping.
- ○ Provide a schedule of each task, overall schedule, and reporting process.
- ○ Keep communication as required with City staff and consultants.
- ○ Any other related duties as required by City staff related to these services.

The following are the examples of services, but not limited to:

- ● Nuclear gauge testing (soils and asphalt)
- ● Sand cone
- ● Sand equivalents
- ● Cone penetration Test
- ● Percolation tests
- ● Geophysical services such as surface wave measurements & others
- ● Concrete components and mix design
- ● Concrete/asphalt checking of production equipment and procedures concrete placement, curing and hardened specimens.
- ● Welding & rebar welding
- ● High strength bolts
- ● Data modeling

SERVICE OVERVIEW

The Consultant must have access to qualified, trained and, where required by the Code or government official certified and/or licensed personnel to accomplish these services on an on call as needed basis. Consultant must be able to provide such personnel in a timely manner, usually within a 24-48-hour window, but may on occasion need to provide on a call-out basis. The Consultant shall be responsible for the submittal and approval of its qualified personnel and procedures to be used under this Agreement to City staff prior to any initial work taking place under this Agreement. The Consultant shall be responsible for providing any and all copies of licenses, certifications and other such required documentation of proof of qualification, training and licensing of personnel to be used under this Agreement. Welding Inspector(s) must have excellent knowledge of welding processes including, but not limited to: Shielded Metal Arc Welding (SMAW), Gas Tungsten Arc Weld (GTAW) and Gas Metal Arc Welding (GMAW), Flux-Cored Arc Welding (FCAW), Plasma Arc Cutting (PAC), Submerged Arc Welding (SAW), One Sided Submerged Welding (OSW), Laser Beam Welding (LBW), Electroslag Welding (ESW), Resistance, brazing and soldering, oxygen and acetylene cutting; have ability to interpret codes and manufacturing standards American Welding Society (AWS), American Society of Mechanical Engineers (ASME), American Iron & Steel Institute (AISI), American National Standards Institute (ANSI), American Proficiency Testing (API), 1104,0831.1, AWS DI.I, ASME IX, V, VIII, and II A, B, C, E; Boiler and pressure vessel code; and American Society of Testing Materials (ASTM); vast knowledge of welding drawings, symbols, welding procedures, qualifications, welding specifications, NDE methods, PT, Magnetic Particle Testing (MT). Radiography Testing (RT), and Ultrasonic Testing (UT) Personnel to be used for this Service must be listed as Senior Certified Welding Inspection (SCWI), Certified Welding Inspector (CWI) or Certified Associate Welding Inspector (CAWI), as required for the assigned work scope, with the applicable licenses or certifications provided.

Schedule Of Fees 2024-2025

Personnel Rates: Per Hour Unless Otherwise Noted

Task Code	Engineering And Consulting Personnel	Rate
10026	Senior Principal Advisor/Consultant	$ 390.00
10001	Principal Engineer/Geologist	$ 280.00
10017	Metallurgical Engineer	$ 390.00
70000	Registered Geotechnical Engineer	$ 280.00
10010	Technical Advisor	$ 260.00
10011	Material Scientist, Welding/NDT Consultant	$ 275.00
70003	Registered Geologist/Certified Engineering Geologist	$ 275.00
10003	Senior Engineer/Geologist	$ 250.00
10009	Registered Civil Engineer	$ 240.00
60003	Roofing/Waterproofing Consultant	$ 265.00
10013	Project Engineer/Manager	$ 235.00
30000	Quality Control Manager	$ 235.00
10005	Senior Staff Engineer/Geologist	$ 220.00
10007	Staff Engineer/Geologist	$ 205.00
10015	Quality Control Administrator	$ 205.00
10019	Metallurgical Technician	$ 175.00
90001	CADD Operator/Draftsperson	$ 160.00
95103	Administrative Support	$ 105.00
70107	Field Supervisor	$ 195.00
91030	Safety Supervisor	$ 195.00
20000	Laboratory Manager	$ 180.00
98000	Laboratory Technician	$ 155.00
90005	Expert Witness Testimony	$ 630.00
91010	Qualified SWPPP Developer	$ 220.00
91000	Qualified SWPPP Practitioner	$ 205.00
30001	Vibration Engineer	$ 240.00

Task Code	Field Inspection Personnel	Rate
10101	Concrete/Reinforced Steel Inspector	$ 139.00
10103	Prestressed/Post Tensioned Inspector	$ 139.00
10105	Concrete ICC Inspector	$ 139.00
10109	Drilled-In-Anchor Inspector	$ 139.00
10111	Gunite/Shotcrete Inspector	$ 139.00
10113	Masonry Inspector	$ 139.00
10201	Structural Steel/Welding Inspector	$ 139.00
10203	AWS Certified Welding Inspector	$ 139.00
10207	Fireproofing Inspector	$ 139.00
10501	Lead Inspector	$ 142.00
10115	Firestop Special Inspector - IFC Premier	$ 160.00
10117	Firestop Special Inspector - IQP	$ 205.00
70109	L.A. Deputy Grading Inspector	$ 150.00
75001	Asphalt Field and Plant Inspector/Technician	$ 139.00
70103	Pile Driving Inspector	$ 139.00
70101	Soils Technician	$ 139.00
10107	Concrete Quality Control (ACI/Caltrans Technician)	$ 139.00
10122	Wood Framing Inspector	$ 139.00
60001	Roofing/Waterproofing Inspector	$ 150.00
10500	Public Works Inspector	$ 155.00
10515	Mechanical Inspector	$ 185.00
10519	Electrical Inspector	$ 185.00
10521	Plumbing Inspector	$ 185.00
10523	Building Inspector	$ 185.00
30002	Vibration Monitoring Technician	$ 160.00
50003	Field Engineering Technician	$ 139.00

Task Code	Shop Inspection Personnel	Rate
10301	Structural Steel Fabrication Inspector	$ 139.00
10309	Batch Plant Quality Control Technician/Inspector	$ 139.00
10325	Glue-Laminated Fabrication Inspector	Quotation
10328	Pre-Cast Concrete/Pipe Fabrication Inspector	$ 139.00

Task Code	Nondestructive Testing Personnel	Rate
10401	NDE Ultrasonic Testing Technician	$ 145.00
10403	NDE Magnetic Particle Testing Technician	$ 145.00
10405	NDE Dye Penetrant Testing Technician	$ 145.00
10305	Combination NDE Technician/Welding Inspector	$ 145.00
10409	Radiographic Testing (Crew Of 2)	**Quotation**
10020	NDE Engineer	$ 255.00

Task Code	Equipment Usage (Daily Unless Otherwise Noted)	Rate
95318	Skidmore	$ 51.00
95309	Torque Wrench, Small	$ 21.00
95312	Torque Wrench, Large	$ 32.00

Task Code	Equipment Usage (Daily Unless Otherwise Noted), Continued	Rate
95315	Torque Multiplier	$ 48.00
95321	Air Meter	$ 37.00
95322	Unit Weight Bucket	$ 28.00
95323	Field Concrete Scale	$ 37.00
95324	2" x 2" x 2" Mold	$ 26.00
95343	Nuclear Gauge (Per Hour)	$ 13.00
95319	Sand Cone Density Test Equipment	$ 60.00
95333	Pull Test Equipment	$ 74.00
95348	Concrete/Asphalt Coring Equipment	$ 720.00
95336	Floor Flatness (Dipstick)	$ 63.00
95330	Schmidt Hammer	$ 48.00
95341	Vapor Emission Test Kits	$ 58.00
95342	Relative Humidity Probe	$ 90.00
95339	UPV (Ultrasonic Pulse Velocity) Meter	$ 420.00
95351	Fireproofing Adhesion/Cohesion (Per Test)	$ 42.00
95300	A Scan Ultrasonic Equipment And Consumables	$ 100.00
95303	Magnetic Particle Equipment And Consumables	$ 53.00
95306	Liquid Penetrant Consumables	$ 48.00
95307	Phased Array Ultrasonic Equipment (Per Hour)	$ 105.00
95347	Ground Penetrating Radar	$ 399.00
95345	Impact Echo	$ 405.00
95362	Ultrasonic Tomography	$ 525.00
95349	Inertial Profiler (Per Hour)	Quotation
95352	Borescope	$ 315.00
95356	Infrared Camera	$ 105.00
95357	Project Dedicated Vehicle	$ 189.00
95364	Roller Compacted Concrete Vibrating Hammer/Tamping Plate	$ 84.00
95367	Half-Cell Potential Equipment Set	$ 405.00
95368	Concrete Electrical Resistivity Meter	$ 189.00
95369	Field Hardness (Steel)	$ 116.00
95370	Coating Thickness Gauge	$ 166.00
95373	Curing Box (Not Temperature Controlled, One-Time Fee/ Per Box)	$ 788.00
95371	Temperature Control Curing Box (Per Month)	$ 525.00
95372	Temperature Matching Curing Box (Per Month)	$ 599.00

Task Code	Specimen Pick-Up	Rate
20100	Soil/Aggregate Sample (Each)	$ 55.00
20102	Standard Sample: Concrete Cylinders (Each)	$ 36.00
20101	Standard Sample: Mortar/Grout Cubes And Cores, Fireproofing, Rebar, And Epoxy Prisms (Each)	$ 36.00
20103	Oversize Sample: Masonry Prisms And Shotcrete Panels (Each)	$ 94.00
20104	Oversize Sample: Flexural Beams (Each)	$ 94.00
20107	Technician For Specimen Pick-Up Not Listed Above (Per Hour, 2-Hour Minimum)	$ 160.00
20109	Technician For Specimen Pick-Up Before 5:00 a.m. Or After 5:00 p.m. Monday Thru Friday, Or All Day Saturday (Per Hour, 2-Hour Minimum Plus Mileage)	$ 220.00

Task Code	Jobsite Trailer, Mobile Or On-site Laboratory	Rate
95360	Portable Or Mobile Laboratory Unit	Quotation
95374	Jobsite Trailer, Conex, Or Equipment Storage Box	Quotation

Task Code	Concrete Tests (Field Made Specimens)	Rate
20201	6" x 12" Cylinder Compression Strength (ASTM C39)	$ 49.00
20202	4" x 8" Cylinder Compression Strength (ASTM C39)	$ 43.00
20203	Density Of Structural Lightweight Concrete Equilibrium Oven Dry Method (ASTM C567)	$ 107.00
20205	Core Compression Including Trimming (ASTM C42)	$ 97.00
20207	6" x 6" x 18" Flexural Beams Not Exceeding Referenced Size (ASTM C78, C293 or CTM 523)	$ 134.00
20209	Splitting Tensile Strength (ASTM C496)	$ 134.00
20211	Modulus Of Elasticity Test (ASTM C469)	$ 348.00
80003	Rapid Chloride Permeability Test: Cylinders Or Cores (ASTM C1202)	$ 610.00
80006	Density, Absorption, And Voids In Hardened Concrete (ASTM C642)	$ 610.00
40005	Flexural Toughness (ASTM C1609, Formerly ASTM C1018)	$ 963.00
40006	Double Punch Strength Of Fiber Reinforced Concrete	$ 642.00
40009	Coefficient Of Thermal Expansion Of Concrete (CRD 39, AASHTO T336)	$ 696.00
40012	Bulk Electrical Resistivity (One Age Of Testing, ASTM C1876)	$ 172.00
80013	Flexural Tensile Strength Of Metallic Fiber Reinforced Concrete Beam (EN 14651)	$ 1,070.00

Task Code	Concrete Specimen Preparation		Rate
20151	Sawing Of Specimens (Each)	$	54.00
20157	Coring Of Specimens In Lab (Each)	$	54.00
20159	Grinding Of Concrete Below 6000 psi Strength (Each)	$	97.00
20160	Grinding Of Concrete 6000 psi Strength And Above (Each)	$	118.00

Task Code	Laboratory Trial Batch: Concrete, Cement And Mortar		Rate
30216	Compression Test 4" x 8" Cylinders Made And Tested In Laboratory (ASTM C192, C35)	$	63.00
30217	Compression Test 6" x 12" Cylinders Made And Tested In Laboratory (ASTM C192, C35)	$	73.00
30219	6" x 6" x 18" Flexural Beams Made And Tested in Laboratory (ASTM C192, C78)	$	150.00
30223	Splitting Tensile Strength Cylinders Made And Tested In Laboratory (ASTM C192, C496)	$	150.00
30225	Modulus of Elasticity Test Cylinders Made And Tested In Laboratory (ASTM C192, C469)	$	364.00
30227	Density Of Structural Lightweight Concrete Made In Laboratory, Equilibrium or Oven Dry Method (ASTM C567)	$	124.00
30237	Bulk Electrical Resistivity (ASTM C1876)	$	188.00
30201	Laboratory Trial Batch (ASTM C192/Lab Procedure Performance)	$	589.00
30203	Concrete Mixture Design For Preconstruction Evaluation And Backup Data Development	$	343.00
30205	Drying Shrinkage Up To 28 Days, Three 3" x 3" Or 4" x 4" Bars, Five Readings Up To 28 Dry Days (ASTM C157)	$	557.00
30230	Additional Reading, Per Set Of Three Bars	$	65.00
30231	Storage Over Ninety (90) Days, Per Set Of Three Bars, Per Month	$	54.00
30207	Setting Time Up To 7 Hours (ASTM C403)	$	214.00
30209	Bleeding (ASTM C232)	$	193.00
30229	Concrete Restrained Expansion (ASTM C878)	$	749.00
30211	Mix, Make and Test Mortar or Grout Specimens for Compressive Strength: Set of 6 (ASTM C878)	$	642.00
20263	Non-Shrink Grout: Height Change After Final Set (ASTM C1090)	$	642.00
20265	Non-Shrink Grout: Height Change At Early Age (ASTM C827)	$	910.00
30232	Cracking Resistance, Set Of Three Rings, Laboratory Trial Batching, Test Until Cracking Or Up To 28 Days (ASTM 1581)	$	6,634.00
30233	Evaluation Of Pre-Packaged Masonry Mortars (ASTM C270)	$	1,391.00
30234	Creep (ASTM C512) (One Age Of Loading, 12 Months Duration Of Testing)	$	9,095.00
80198	Laboratory Development of Strength-Maturity Curve Without Establishing Datum Temperature (Up To 5 Testing Ages, ASTM C1074)	$	3,424.00
80199	Laboratory Development Of Strength-Maturity Curve With Establishing Datum Temperature (Up to 5 Testing Ages, ASTM C1074)	$	5,664.00

Task Code	Evaluation of Mixing Water for Concrete		Rate
80246	Evaluation of Mixing Water For Concrete Per The Requirements Of ASTM C1602, Table 1 (Physical Properties Of Mortar), Per Sample	$	1,070.00
80248	Evaluation Of Mixing Water For Concrete Per The Requirements Of Caltrans, Section 90, Per Sample	$	1,284.00

Task Code	Concrete - Chemical Analysis, Transport Properties, Service Life Modeling, Petrographic Examination		Rate
80123	Acid-Soluble Chloride Analysis (ASTM C1152) Includes Sample Prep)	$	134.00
80126	Water-Soluble Chloride Analysis (ASTM C1218) (Includes Sample Prep)	$	161.00
80193	Chloride Diffusion Coefficient Of Cementitious Mixtures By Bulk Diffusion (ASTM C1556)	$	2,996.00
80159	Bulk Resistivity (ASTM C1876) And Formation Factor	$	696.00
80204	Chloride Binding Isotherm	$	910.00
80206	Analytical And Experimental (ASTM C1556) Modeling Of Service Life Of Concrete Per Life-365 Model, Per Mixture Design	$	8,560.00
80208	Analytical And Experimental (NordTest) Modeling Of Service Life Of Concrete Per FIB Model Code 34, Per Mixture Design	$	8,560.00
80210	Non-Steady State Chloride Migration Coefficient, NordTest 492	$	669.00
80212	Petrographic Examination Of Hardened Concrete, Level I (ASTM C856) (Excludes Thin Section), Per Sample	$	1,750.00
80129	Petrographic Examination Of Hardened Concrete, Level II (ASTM C856) Includes Thin Section, Per Sample	$	2,250.00
80218	Petrographic Examination Of Hardened Concrete, Level III (ASTM C856/C1723) (Thin Section And SEM/EDX), Per Sample	$	3,500.00
80222	*W/CM* Determination (NordTest Build 361)	$	1,338.00
80224	Examination Of Volumetric Proportions Of Hardened Concrete (ASTM C457), Per Sample	$	535.00
80228	Air Void Analysis Of Hardened Concrete (ASTM C457), Per Sample	$	750.00
80232	Electron Microscopy (ASTM C1723)	$	803.00
80234	Paste Carbonation Analysis, Per Sample	$	268.00
80238	Insoluble Residue Analysis (ASTM C1324)		Quotation
80240	Alkali-Silica - Damage Rating Index (DRI), Per Sample	$	1,338.00

Task Code	Qualification Of Cements		Rate
80100	Chemical Analysis Of Portland Cement Per Standard Requirements (ASTM C150)	$	803.00
80103	Physical Testing Of Portland Cement Per Standard Requirements (ASTM C150)	$	803.00
80194	Physical Testing Of Type K Cement, Mortar Expansion (ASTM C806)	$	803.00
80195	Physical Testing And Chemical Analysis Of Portland Cement Per Standard Requirements (ASTM C150)	$	1,498.00
80106	Partial Analysis Or Specific Physical Tests		Quotation
80110	Sulfates Resistance Of Hydraulic Cement (ASTM C1012), 6 Months	$	3,210.00
80111	Sulfates Resistance Of Hydraulic Cement (ASTM C1012), 12 months	$	3,531.00
80149	Type 1L Cement (ASTM C595; Excludes Special Properties)	$	1,498.00
80151	Clinker Microscopy, Per Sample	$	910.00

Task Code	Physical Testing Of Chemical Admixtures For Concrete		Rate
80196	Qualification Of Admixture (ASTM C494)		Quotation

Task Code	Evaluation Of Pozzolans And Slag Cement		Rate
80140	Chemical Analysis Of Fly Ash Per Standard Requirements (ASTM C618)	$	803.00
80143	Physical Testing Of Fly Ash Per Standard Requirements (ASTM C618)	$	803.00
80146	Partial Analysis Or Specific Physical Tests		Quotation
80147	Chemical Analysis And Physical Testing Of Fly Ash Per Standard Requirements (ASTM C1618)	$	1,498.00
80250	Qualification Of Silica Fume Per Standard Requirements (ASTM C1240)	$	1,498.00
80252	Qualification Of Slag Cement Per Standard Requirements (ASTM C989)	$	1,498.00
80254	Effectiveness Of Pozzolans & Slag Cement In Mitigating Expansion Due To ASR (ASTM C441)	$	1,498.00

Task Code	Mass Concrete - Engineering And Testing Services		Rate
80256	Thermal Control Plan (Without Cooling Pipes) Per A Unique Type Of Placement Of Similar Group Of Placements, Each Plan	$	9,000.00
80258	Thermal Control Plan (With Cooling Pipes), Per A Unique Type Of Placement Of Similar Group Of Placements, Each Plan	$	10,500.00
80260	Performance Based Maximum Temperature Difference Laboratory & Analytical Studies, One Concrete Mixture Design	$	6,000.00

Task Code	Rock And Concrete Aggregates - Petrographic Examination & Special USACE & CRD Tests		Rate
80262	Rock Type Description, Per Sample (Rock Core Or Rock Chunk)	$	1,000.00
80263	Rock Type Description + XRD Including Clay Analysis, Per Sample	$	1,500.00
80266	Natural Aggregates - Petrographic Examination (Gravel And Natural Sand Consisting Of Single Rock Type ASTM C295) Each, One Sample	$	2,750.00
80268	Crushed Aggregates - Petrographic Examination (Crushed Rock And Manufactured Sand Consisting Of Single Rock Type ASTM C295), Each, One Sample	$	2,750.00
80270	Coarse Aggregate Certification For Deleterious Materials Per Specifications Of USACE, Materials Coarser Than 0.75-Inch Each, One Sample, 200 lb.	$	6,500.00
80272	Coarse Aggregate Certification For Deleterious Materials Per Specifications Of USACE, 0.75-Inch And Finer Material, Each, One Sample, 25 lb.	$	5,500.00
80274	Fine Aggregate Certification For Deleterious Materials Per Specifications Of USACE, Each, One Sample	$	2,750.00
80276	Aggregate, Scratch Hardness (CRD-C 130), Each, One Sample, 25 lb.	$	500.00

Task Code	Soils And Aggregate Tests		Rate
30503	Abrasion: LA Rattler (ASTM C131)	$	206.00
30505	Abrasion: LA Rattler (ASTM C535)	$	217.00
70301	Atterberg Limits/Plasticity Index (ASTM D4318, CTM 204)	$	165.00
70303	California Bearing Ratio Excluding Maximum Density (ASTM D1883) Soil	$	598.00
70304	California Bearing Ratio Excluding Maximum Density (ASTM D1883) Cement-Treated Soil	$	670.00
70344	Cement-Treated Soil/Base Mix Design: Includes Three Trial Cement Contents With Three Unconfined Compressive Strength Specimens Per Cement Content	$	3,605.00
70305	Chloride And Sulfate Content (CTM 417, CTM 422)	$	180.00
30403	Clay Lumps And Friable Particles (ASTM C142)	$	210.00
30321	Cleanness Value 1" x #4 (CTM 227)	$	180.00
30322	Cleanness Value 1.5" x .75" (CTM 227)	$	285.00

Task Code	Soils And Aggregate Tests, Continued	Rate
70393	Collapse Potential/Index (ASTM D5333)	$ 232.00
70396	Compressive Strength Of Molded Soil-Cement Cylinders (ASTM D1633)	$ 109.00
70309	Consolidation Test Full Cycle (ASTM 2435, CTM 219)	$ 205.00
70311	Consolidation Test Time Rate Per Load Increment (ASTM D2435, CTM 219)	$ 47.00
70313	Corrosivity Series Sulfate, Cl, pH, Resistivity (CTM 643, 417, and 422)	$ 253.00
70315	Crushed/Fractured Particles (ASTM D5821, CTM 205)	$ 180.00
70317	Direct Shear Test Remolded And/Or Residual (ASTM D3080)	$ 255.00
70319	Direct Shear Test Undisturbed - Slow [CD] (ASTM D3080)	$ 230.00
70321	Direct Shear Test Undisturbed - Fast [CU] (ASTM D3080)	$ 200.00
70378	Durability Index Per Method - A,B,C, or D (ASTM D3744, CTM 229)	$ 220.00
70325	Expansion Index (ASTM D4829, UBC 18-2)	$ 175.00
75004	Fine Aggregate Angularity (ASTM C1252, CTM 234, AASHTO T304)	$ 200.00
30507	Flat And Elongated Particle (ASTM D4791)	$ 250.00
30508	Flat Or Elongated Particle (ASTM D4791)	$ 220.00
70331	Maximum Density Methods A/B/C (ASTM D1557, D698, CTM 216)	$ 195.00
70333	Maximum Density Check Point (ASTM D1557, D698)	$ 70.00
70335	Maximum Density AASHTO C [Modified] (AASHTO T-180)	$ 200.00
70336	Maximum Index Density Vibratory Table (ASTM D4253)	$ 355.00
70337	Moisture Content (ASTM D2216, CTM 226)	$ 30.00
70339	Moisture and Density Ring Sample (ASTM D2937)	$ 30.00
70341	Moisture and Density Shelby Tube Sample (ASTM D2937)	$ 45.00
70340	Moisture-Density Relations Of Soil-Cement Mixtures Premixed In The Field (ASTM D558)	$ 285.00
70342	Moisture-Density Relations Of Soil-Cement Mixtures Mixed In The Lab (ASTM D558)	$ 365.00
70328	pH Of Soils (ASTM D4972)	$ 65.00
70330	Organic Content Of Soils (ASTM D2974, Method A Only)	$ 90.00
30401	Organic Impurities (ASTM C40, CTM 213)	$ 95.00
70343	Permeability (ASTM D5084)	Quotation
80001	Potential Reactivity Chemical Method (ASTM C289 - Discontinued Method)	$ 800.00
70394	Potential Reactivity Mortar Bar Expansion Method, 14-Day Exposure (ASTM C1260)	$ 990.00
70391	Potential Reactivity Mortar Bar Expansion Method, 28-Day Exposure (ASTM C1260)	$ 1,100.00
70398	Potential Reactivity Concrete Bar Expansion Method (ASTM C1293), 12 month	$ 2,995.00
70399	Potential Reactivity Concrete Bar Expansion Method (ASTM C1293), 24 month	$ 3,320.00
70397	Potential Reactivity of Aggregate Combination, Non-Standard Method; 14-Day Exposure, Mortar (After ASTM C1567)	$ 1,175.00
70392	Potential Reactivity Of Aggregate Combination, Non-Standard Method; 28-Day Exposure, Mortar (After ASTM C1567)	$ 1,230.00
70345	R-Value Soil (ASTM 2844, CTM 301)	$ 454.00
70347	R-Value Aggregate Base (ASTM D2844, CTM 301)	$ 505.00
70349	Sand Equivalent (ASTM D2419, CTM 217)	$ 129.00
70351	Sieve #200 Wash Only (ASTM D1140, CTM 202)	$ 93.00
70353	Sieve With Hydrometer 3/4" Gravel To Clay (ASTM D422, D7928, CTM 203)	$ 258.00
70355	Sieve With Hydrometer Sand To Clay (ASTM D422, D7928, CTM 203)	$ 248.00
70357	Sieve Analysis Including Wash (ASTM C136, CTM 202)	$ 155.00
70359	Sieve Analysis Without Wash (ASTM C136, CTM 202)	$ 125.00
70360	Sieve Analysis Split Sieve (ASTM C136, CTM 202)	$ 250.00
70361	Sieve Analysis Without Wash With Cobbles (ASTM C136, CTM 202)	$ 245.00
70363	Soundness Sodium Or Magnesium Sulfate, 5 Cycles (ASTM C88)	$ 464.00
70365	Specific Gravity And Absorption Coarse (ASTM C127, CTM 206)	$ 105.00
70367	Specific Gravity and Absorption Fine (ASTM C128, CTM 207)	$ 170.00
70369	Swell/Settlement Potential One Dimensional (ASTM D4546)	$ 155.00
70371	Triaxial	Quotation
70373	Unconfined Compression (ASTM D2166, CTM 221)	$ 196.00
30317	Unit Weight Per Cubic Foot (ASTM C29, CTM 212)	$ 129.00
30319	Voids In Aggregate With Known Specific Gravity (ASTM C29, CTM 212)	$ 129.00
30411	Lightweight Particles Coarse, with Two Solutions (ASTM C123)	$ 535.00
30412	Lightweight Particles Fine, with One Solution (ASTM C123)	$ 258.00
20807	Method of Test for Relative Mortar Strength of Portland Cement Concrete Sand (CT 515)	$ 1,400.00

Task Code	Asphalt Concrete Tests	Rate
75031	HMA Mixing And Preparation	$ 140.00
75032	HMA Mixing And Preparation With Aggregate Treatment	$ 196.00
75033	Bulk Specific Gravity Of Compacted Sample Or Core SSD (ASTM D2726, CTM 308C)	$ 62.00
75036	Bulk Specific Gravity Of Compacted Sample Or Core Paraffin Coated (ASTM D1188 and CTM 308A)	$ 88.00

Task Code	Asphalt Concrete Tests, Continued	Rate
75040	Emulsion Residue, Evaporation (ASTM D244)	$ 175.00
75024	Extraction % Bitumen (ASTM D6307, CTM 382)	$ 175.00
75027	Extraction % Bitumen And Gradation (ASTM D5444, D6307, CTM 202, 382)	$ 240.00
75028	Extraction % Bitumen, Correction Factor (ASTM D6307, CTM 382)	$ 385.00
75030	Chemical Extraction % Bitumen And Sieve Analysis (ASTM D2172 Method A or B, ASTM D5444)	$ 410.00
75042	Lab Tested Maximum Density Hveem, 3 Briquettes (ASTM D1561, D1188, CTM 304, 308)	$ 235.00
75057	Hveem Stabilometer Test, Premixed, 3 Briquettes (ASTM D1560, D1561, CTM 304, 366)	$ 235.00
75048	Lab Tested Maximum Density Marshall, 3 Briquettes (ASTM D6926, D2726)	$ 230.00
75049	Lab Tested Maximum Density Marshall 6" Specimen, 3 Briquettes (ASTM D5581, D2726)	$ 235.00
75050	Lab Tested Maximum Density Superpave Gyratory Compacted Briquette, SSD, 1 Briquette (ASTM D6925, D2726)	$ 90.00
75052	Lab Tested Maximum Density Superpave Gyratory Compacted Briquette, Paraffin, 1 Briquette (ASTM D1188, D6925)	$ 100.00
75051	Maximum Theoretical Specific Gravity [RICE] (ASTM D2041, CTM 309)	$ 180.00
75066	Marshall Stability And Flow, Cored Sample, Each ASTM D6927)	$ 90.00
75069	Marshall Stability And Flow, Premixed, 3 Briquettes (ASTM D6926, D6927)	$ 255.00
75106	Marshall Stability And Flow, Gyratory Compacted Specimen Pre-Mixed, 3 Briquettes (ASTM D5581, D6925)	$ 255.00
75107	Marshall Stability And Flow 6" Specimen, Premixed, 3 Briquettes (ASTM D5581)	$ 255.00
75063	Moisture Content (CTM 370)	$ 90.00
75005	Wet Track Abrasion Test (ASTM D3910)	$ 185.00
75093	Hveem Mix Design (Excluding Aggregate Quality Tests)	$ 6,000.00
75096	Hveem Mix Design, With RAP (Excluding Aggregate Quality Tests, RAP Qualification)	$ 6,500.00
75099	Hveem Mix Design, With Lime (Excluding Aggregate Quality Tests)	$ 10,000.00
75094	Hveem Mix Design Caltrans Untreated Mix (Including Aggregate Quality Tests)	$ 7,000.00
75095	Hveem Mix Design Caltrans Lime Treated Mix (Including Aggregate Quality Tests)	$ 8,000.00
75084	Marshall Mix Design (Excluding Aggregate Quality Tests)	$ 6,000.00
75087	Marshall Mix Design With RAP (Excluding Aggregate Quality Tests)	$ 6,400.00
75090	Marshall Mix Design With Lime (Excluding Aggregate Quality Tests)	$ 7,000.00
75083	Open Grade Asphalt Concrete Mix Design (ASTM D7064, CTM 368)	$ 3,500.00
75109	Superpave Mix Design (Excluding Aggregate Quality Tests)	$ 12,000.00
75113	Superpave Mix Design, With RAP (Excluding Aggregate Quality Tests)	$ 12,500.00
75114	Superpave Mix Design With Rubber (Excluding Aggregate Quality Tests)	$ 12,500.00
75115	Superpave Mix Design With Additives (Excluding Aggregate Quality Tests)	$ 12,700.00
75075	Effect Of Moisture On Asphalt Paving Mixtures, Pre-Mixed (ASTM D4867, AASHTO T283)	$ 1,200.00
75111	Hamburg Wheel Track Test, 20,000 Passes, 4 Briquettes (AASHTO T324)	$ 1,300.00
75039	Raveling Test Of Cold Mixed Emulsified Asphalt (ASTM D7196)	$ 225.00
75067	Marshall Stability, Wet Set, 3 Replicates (AASHTO T245)	$ 390.00
75068	Marshall Stability, Dry Set, 3 Replicates (AASHTO T245)	$ 330.00
75070	Cold Recycled Asphalt Mix Design 2 Gradings Each, 3 Emulsion Content (Caltrans LP-8)	$ 11,600.00

Task Code	Mortar And Stucco - Petrographic Examination	Rate
80282	Stucco, One-Coat (ASTM C856), Includes Thin Section), Per Sample	$ 2,250.00
80286	Stucco, Two-Coat (ASTM C856), Includes Thin Section), Per Sample	$ 2,500.00
80290	Stucco, Three-Coat (ASTM C856), Includes Thin Section), Per Sample	$ 3,000.00
80294	Mortar (ASTM C1324, Petrographic Examination And Chemical Analysis), Per Sample	$ 3,250.00

Task Code	Brick Masonry Tests, ASTM C67	Rate
20301	Modulus Of Rupture Flexural	$ 118.00
20303	Compression Strength	$ 81.00
20305	Absorption 5 Hour or 24 Hour	$ 86.00
20307	Absorption (Boil) 1, 2 Or 5 Hours	$ 118.00
20309	Initial Rate Of Absorption	$ 75.00
20311	Efflorescence	$ 91.00
20313	Cores Compression	$ 97.00
20315	Shear Test On Brick Cores 2 Faces	$ 118.00

Task Code	Concrete Block, ASTM C140		Rate
20321	Compression	$	102.00
20323	Absorption/Moisture Content/Oven Dry Density	$	102.00
20327	Linear Shrinkage (ASTM C426)	$	295.00
20335	Web And Face Shell Measurements	$	59.00
20329	Tension Test	$	188.00
20331	Core Compression	$	97.00
20333	Shear Test Of Masonry Cores 2 Faces	$	118.00
20339	Efflorescence Tests	$	91.00

Task Code	Masonry Prisms, ASTM C1314		Rate
20341	Compression Test, Composite Masonry Prisms Up To 8" x 16"	$	220.00
20343	Compression Test, Composite Masonry Prisms > 8" x 16"	$	295.00
20346	Prism Cord Modulus of Elasticity	$	696.00
20347	Prism Cord Modulus Of Elasticity With Transverse Strain (For Double-Wythe Specimen)	$	760.00

Task Code	Mortar And Grout		Rate
20351	Compression 2" x 4" Mortar Cylinders (ASTM C780)	$	65.00
20353	Compression 3" x 3" x 6" Grout Prisms, Includes Trimming (ASTM C1019)	$	49.00
20355	Compression 2" Cubes (ASTM C109)	$	65.00
20357	Compression Cores Includes Trimming (ASTM C42)	$	97.00

Task Code	Masonry Specimen Preparation		Rate
20155	Cutting Of Cubes Or Prisms	$	81.00

Task Code	Fireproofing Tests		Rate
20401	Oven Dry Density (ASTM E605)	$	97.00

Task Code	Gunite And Shotcrete Tests		Rate
20361	Core Compression Including Trimming (ASTM C42)	$	113.00
20365	Compression Cubes (Includes Saw Cutting)	$	81.00

Task Code	Concrete Roof Fill: Gypsum, Vermiculite, Perlite, Lightweight Insulating Concrete, Etc.		Rate
20371	Compression Test (ASTM C495 and C472)	$	81.00
20373	Air Dry Density (ASTM C472)	$	70.00
20379	Oven Dry Density (ASTM C495)	$	97.00

Task Code	Reinforcing Steel, ASTM A615, A706		Rate
20501	Tensile Test #11 Or Smaller	$	81.00
20503	Bend Test #11 Or Smaller	$	75.00
20504	Bend Test #14 Or #18	$	428.00
20505	Tensile Test #14	$	321.00
20507	Tensile Test #18	$	418.00

Task Code	Reinforcing Steel - Welded Or Coupled Specimens		Rate
20521	Tensile Test Welded/Coupled #11 And Smaller	$	91.00
20523	Tensile Test Welded/Coupled #14	$	311.00
20525	Tensile Test Welded/Coupled #18	$	439.00
20529	Weld Macroetch	$	102.00
20531	Slippage Test - Caltrans (CTM 670)	$	236.00
20532	Tensile Test Welded Hoops #11 And Smaller	$	182.00

Task Code	Metal and Steel Testing		Rate
20601	Tensile Strength Up To 100K Pounds (Each)	$	91.00
20603	Tensile Strength Up To 200K Pounds (Each)	$	102.00
20605	Tensile Strength Up To 300K Pounds (Each)	$	129.00
20607	Tensile Strength Up To 400K Pounds (Each)	$	188.00
20609	Tensile Strength 400K To 600K Pounds (Each)	$	428.00
20611	Tensile Strength Stress-Strain Percent Offset	$	268.00
20545	Weld Macroetch	$	102.00
20547	Weld Fracture	$	54.00
20615	Bend Test	$	86.00
20617	Flattening Test	$	86.00

Task Code	Metal and Steel Testing, Continued		Rate
20619	Hardness Test (ASTM E18)	$	91.00
20630	Bolt Axial Tensile Test (Up To 7/8" Diameter)	$	75.00
20631	Bolt Wedge Tensile Test (Up To 7/8" Diameter)	$	91.00
20632	Bolt Axial Tensile Test (Greater Than 7/8" Up To 1" diameter)	$	97.00
20633	Bolt Wedge Tensile Test (Greater Than 7/8" Up To 1" Diameter)	$	118.00
20634	Bolt Axial Tensile Test (Greater Than 1" Diameter)	$	140.00
20635	Bolt Wedge Tensile Test (Greater Than 1" Diameter)	$	150.00
20636	Bolt Proof Load Test (Up To 7/8")	$	102.00
20637	Bolt Proof Load Test (Greater Than 7/8" Up To 1" Diameter)	$	124.00
20638	Bolt Proof Load Test (Greater Than 1")	$	145.00
20639	Nut Proof Load Test (Up To 7/8")	$	81.00
20640	Nut Proof Load Test (Greater Than 7/8" Up To 1" Diameter)	$	102.00
20641	Nut Proof Load Test (Greater Than 1")	$	113.00

Task Code	Chemical Testing Of Metal And Steel		Rate
80170	Steel Chemical Analysis		Quotation
80173	Weight Of Galvanized Coating (ASTM A90)	$	97.00
80176	Epoxy Coating Thickness	$	107.00
80177	Coating Thickness	$	102.00

Task Code	Machining And Preparation Of Tensile And Bend Sample: Carbon Steel		Rate
20751	Machinist Initial Preparation From Mock-Up, Etc. (Per Hour)	$	156.00
20753	Sawcut To Overall Width (Per 0.5" Thickness Or Fraction Thereof)	$	70.00
20755	Machine To Test Configuration Milled Specimens	$	102.00
20757	Machine To Test Configuration Turned Specimens (Per 0.5" Thickness Or Fraction Thereof)	$	182.00
20759	Prepare Subsize Specimens (Per 0.5" Thickness Or Fraction Thereof)	$	124.00

Task Code	Charpy Impact		Rate
20621	Charpy Impact Ambient Temperature	$	113.00
20623	Charpy Impact Reduced Temperature	$	150.00

Task Code	Machining Of Charpy Samples: Carbon Steel		Rate
20780	Cutting And Milling (Per 0.5" Or Fraction Thereof)	$	102.00
20783	Final Machining To Sample Configuration	$	124.00

Task Code	Prestressing Wires And Tendons, (ASTM A416)		Rate
20701	Stress-Strain Analysis Wire Or Strands (Including Chart And Percent Offset)	$	273.00
20703	Tensile Test Only	$	204.00
20705	Tendons		Quotation

Task Code	Polymer Matrix Composite Materials (Fiberwrap)		Rate
20706	Tensile Strength – Set of 5 Specimens/Batch/Direction (ASTM D3039)	$	1,498.00
20707	Tensile Strength – Additional Specimens (ASTM D3039) (ASTM D3039)	$	289.00
20708	Heating Chamber Time – Per 24 Hr. Period	$	107.00

Task Code	Calibration Services And Universal Machine Usage		Rate
20801	Calibration/Verification Services		Quotation
20803	Universal Test Machine Usage (Per Hour)	$	509.00

Specialty Testing

- Cylic And Fatigue Testing Programs On Special Products/Parts
- Engineering And Technical Supports/Design Of Prototypes And Special Test Set-Up
- Fastener/Coupling Full Testing Program Per New Regulations: Tension, Tension/Bend, Shear, Double Shear, 8 Compressions
- Fiberglass/Composite Materials Field Testing Program (ASTM D1143 D1242, D2584, D4065, D4476, D4923, D7901, D7921, and D732)
- Field Testing Of Structures And Structural Elements
- In-Place Shear Testing
- Materials And/Or Product Evaluation Per Specifications
- Structural Dynamic Testing And Durability Analysis

City of Oxnard
Insert Department Name
305 West Third Street, East Wing Oxnard, California 93030

TASK ORDER

All Task Orders must include a copy of the vendor proposal/estimate

Task Order No.:	Agreement No.:
Task Order NTE Amount:	Agreement NTE Amount:
City Purchase Order No.:	Agreement Type:
Prime Consultant:	Subconsultant(s):

PROJECT TITLE OR SPECIFICATION NO.:

PROJECT DESCRIPTION:

DESCRIPTION OF SERVICES TO BE PERFORMED UNDER THIS TASK ORDER:

TIME FOR COMPLETION OF SERVICES UNDER THIS TASK ORDER:

COMPENSATION FOR SERVICES SHALL NOT EXCEED THE TASK ORDER NTE AMOUNT.

City Project Manager:

Consultant Project Manager:

Services under this Task Order shall not proceed until this Task Order is executed by the City and Consultant and the City issues a Notice to Proceed. This Task Order may only be modified in writing and subject to City approval. Consultant shall not exceed the scope of the task order or NTE amount.

City of Oxnard		[Consultant]	
[designated rep]	Date	[Name & Title]	Date
Insert Department Assistant Director/Director	Date	[Name & Title]	Date

Account Number and Project Number	*Example 1011234-53200-CXXXX*

Agreement No. 32500368

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Twining, Inc.)

INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of $1,000,000, with neither Consultant nor listed subconsultants having less than $500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

1/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG . $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
❒ COMMERCIAL GENERAL LIABILITY ❒ Claims Made
❒ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
❒ OWNERS & CONTRACTORS PROTECTIVE ❒ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
❒ GENERAL		
❒ PRODUCTS/COMPLETED OPERATIONS		
❒ PERSONAL & ADVERTISING INJURY		
❒ FIRE DAMAGE		
❒ _____		
❒ _____		

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____
Address: _____
_____
Telephone: (_____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)
Telephone: (____) _____ Date Signed: _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Twining, Inc.)

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard Consultant/Professional Services contracts that may be governed by the Living Wage Policy.

A. Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

D. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2024

Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. This hourly rate shall be adjusted on July 1, 2025, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

c. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Twining, Inc.)

PREVAILING WAGE

1. Consultant acknowledges that the Project defined in the Agreement between Consultant and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Consultant shall perform the Project as a public work. Consultant shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

3. Consultant is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).

4. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Consultant shall, as a penalty to City, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Consultant or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. Consultant shall comply with Labor Code Section 1776, which requires Consultant and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.

6. Consultant shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Consultant may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Consultant must immediately notify City.

8. Consultant is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.

9. Consultant acknowledges that 8 hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810.

10. Consultant shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Consultant shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Consultant's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. Consultant shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Consultant shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Consultant shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, Consultant shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Consultant, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Consultant under this Section shall survive Agreement termination.

EXHIBIT F
PROFESSIONAL SERVICES AGREEMENT

CITY of Oxnard and Twining, Inc.)

IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)

Public Contract Code Sections 2202-2208

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to,or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars ($1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of $250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entityidentified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engagedin investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

OPTION No.2 - EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institutionengaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

ON-CALL PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OXNARD AND GEOCON WEST, INC.

By This On-Call Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of Geocon West, Inc. ("Consultant"), and Consultant agrees to perform the Services for City as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. City and Consultant may be individually referred to as "Party" or collectively as the "Parties."

1. **[INTENIONALLY OMITTED]**

2. **SUMMARY DESCRIPTION OF SERVICES.**
   The Services to be performed pursuant to this agreement are described in the Scope of Services, attached hereto as Exhibit A. The City may require Consultant to perform all or a portion of these services through subsequently issued Task Orders. Task Orders will be in the form of the template described in and attached the Scope of Services. The Services under this Agreement will be provided on an on-call or as needed basis.

   Consultant is not be the exclusive provider of services to the City. The City does not guarantee a specified amount of work under this on-call agreement.

3. **PARTIES.**

   City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030.

   Geocon West, Inc., a corporation/LLC/LLP of the State of California, located at 6960 Flanders Drive, San Diego, CA 92121

4. **TERM OF AGREEMENT:** From: February 19, 2025 To: February 18, 2026

   A. Time is of the essence in this Agreement
   B. The City shall have the option to exercise (4) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and

conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.

C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.

D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. **AGREEMENT AMOUNT NOT TO EXCEED:** $1,000,000.00 [1]

6. **AGREEMENT EXHIBITS**. The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services and Task Order Template
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage Policy
Exhibit F: Iran Contracting Certification

7. **DESIGNATED REPRESENTATIVES.** The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the Services under this Agreement. Additionally, Consultant's Services shall be performed or immediately supervised by the Consultant's Representative:

City Designated Representative	Consultant Designated Representative
Name: Morgan Kessler Title: City Engineer Phone: 805-385-7880 Email: morgan.kessler@oxnard.org Address: 305 W. Third Street, East Wing, 2nd Floor, Oxnard, CA 93030	Name: Neal Berliner Title: President/Principal Engineer Phone: 818-841-8357 Email: berliner@geoconinc.com Address: 500 N. Victory Blvd., Burbank, CA 91502

[1] This is not a guaranteed dollar amount. No services or work performed pursuant to a Task Order shall exceed the "Not to Exceed" Amount of the Contract or the agreed upon amount stated in the Task Order.

8. **CONTRACTUAL PREREQUSITIES.** This Agreement must first be executed by the Consultant, after which the Agreement shall be approved as to form by the City Attorney, then executed by the Mayor, or an authorized person on behalf of the City, and if executed by the Mayor shall also be executed by the City Clerk.

    A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by the City.
    B. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.
    C. Consultant shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

9. **CONSULTANT'S SERVICES.**

    A. Consultant shall perform only the type or category of services as set forth in the "Scope of Services," and pursuant to the information contained in the Task Orders issued pursuant to this agreement.
    B. Task Orders may only be modified in writing by the City's Project Manager or Designated Representative.
    C. The Services issued pursuant to a Task Order shall be coordinated with the designated City Project Manager set forth in Exhibit A and are subject to the direction of the City Manager or Department Director. Consultant hereby designates as its Project Manager, the individual identified in Section 7 of this Agreement, as the person responsible for the Services who shall coordinate with City's Project Manager in executing the Scope of Services and Task Order(s) under this Agreement.
    D. Under no circumstances shall the Consultant exceed the amount stated in the City's Task Order or perform additional work or services that are not included in the Task Order

10. **COMPENSATION.** City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and based on the hourly rates and fees set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." Consultant's compensation shall not to exceed amount stated in the Task Order. Under no circumstances shall the Consultant perform work in excess of

the amount stated in the Task Order or the not to exceed amount listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

A. The maximum not to exceed amount for any individual Task Order issued pursuant to this Agreement shall be $100,000.00 per Task Order or $200,000, if the Task Order is associated with an identified and approved Capitol Improvement Project.
B. Annual Rate and Fees adjustments must be requested in writing and shall not exceed 3% and are subject to approval by the City. Annual adjustments shall apply to Task Orders issued after the adjustment is approved and not retroactively to in progress Task Orders.

11. PAYMENT and INVOICES. The City shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the City disputes one or more items in an invoice, the City shall, within thirty (30) days after receipt of such invoice, notify the Consultant of the item(s) being disputed and the reason(s) therefore. The City may withhold payment for such disputed items until resolution of the dispute.

A. Payment Request. Consultant shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **pwengineeringap@oxnard.org**.
B. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontracted Consultants.
C. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant,

Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.

D. **Non-Appropriation of Funds.** Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this Agreement. The initial term, plus any option to extend shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 4(B), then this Agreement shall not be extended.**

13. **MODIFICATION OF AGREEMENT.** This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement or any Task Order issued under this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services under this Agreement or Task Order.

14. **TERMINATION OF AGREEMENT.** City may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 22 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. City shall be liable to Consultant only for work done by Consultant up to and including the date of termination of this Agreement unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant may terminate this

Agreement at any time during the term of the Agreement by giving the City sixty (60) calendar days' prior written notice.

15. [RESERVED]

16. INDEPENDENT CONTRACTOR. Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any Services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such Services shall not materially interfere with the Services the Consultant shall perform for the City. The City retains the right to provide general instructions to and observe the Consultant in the performance of all Services done on behalf of the City.

Consultant and its employees, subconsultants, and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant T and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. LAWFUL PERFORMANCE. Consultant shall abide by all federal, state, and local laws and regulations as may be related to the performance of duties under this Agreement. Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Services under this Agreement.

18. SAFETY REQUIREMENTS. Consultant shall not perform any Services for the City when the Consultant is impaired by alcohol or a controlled substance. When there is

reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the City's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The City reserves the right to issue restraining or cease and desist orders to Consultant when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of Consultant 's work by City shall not operate as a release of the Consultant from such standard of care and workmanship.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

    A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
    (1) Has thoroughly reviewed and considered the services and work to be performed; and
    (2) Has reviewed the issues regarding the Scope of Services and Task Orders to be provided; and
    (3) Has carefully considered how the services and related work should be performed; and
    (4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. **OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY.** City shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by Consultant in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by City.

A. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the Consultant pursuant to or in connection with this Agreement shall be the exclusive property of the City.
B. Deliverables. Consultant shall deliver to the City the studies, plans, specifications, or other documents as are identified in the Scope of Services or Task Order; and Consultant shall, upon completion of all work or termination of this Agreement, submit to the City all information developed in the course of the Consultant 's services. Consultant shall, in such time and in such form as the City may require, furnish reports concerning the status of Services required under this Agreement. Consultant shall, upon request by City and upon completion or termination of this Agreement, deliver to the City all material furnished to Consultant by the City.
C. Records and Inspections. The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The City shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.
D. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. Consultant may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for Consultant to perform its obligations pursuant to this Agreement. If Consultant is granted such access to confidential information, Consultant shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.
E. Disclosure of Information. Consultant shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to Consultant by the City or other information to which the

Consultant has had access during the term of this Agreement without the prior written approval of the City's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

F. No Warranty. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Consultant in reliance on any Confidential Information disclosed under this Agreement.

21. **NOTICE OF BREACH AND OPPORTUNITY TO CURE.** Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

22. **NOTICE.** All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 7. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

23. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE.** Except as set forth in Subsection A of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City

(collectively “Claims”) which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

A. The provisions of this Subsection apply only in the event that Consultant is a design professional within the meaning of California Civil Code section 2782.8 (“Design Professional”). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

   (1) Notwithstanding the provisions of Section 23 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, Consultant's duty to indemnify, hold harmless, and defend the City Indemnitees shall be limited to the extent that any Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

   (2) In no event shall the costs of defense charged to Consultant exceed the Consultant’s proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

24. **INSURANCE.** Consultant shall obtain and maintain during the performance of any Services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Consultant shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. **LIVING WAGE REQUIREMENTS**. During the term of this Agreement, Consultant understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, Consultant will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the Services provided for by this Agreement. The Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. **PREVAILING WAGE REQUIREMENTS.** The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees. For further information regarding Prevailing Wage Requirements please refer to Exhibit "E" attached to this Agreement.

    A. To determine if this Agreement is subject to compliance monitoring and enforcement, go to: https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html
    B. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.
    C. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the

two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the Consultant.

27. **IRAN CONTRACTING ACT.** In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any Consultant that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or Services of one million dollars ($1,000,000) or more, must certify, that the Consultant is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

    A Consultant is ineligible to enter into any contract with the City for goods or Services of one million dollars ($1,000,000) or more if the Consultant engages in investment activities in Iran. Consultant must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit F.

28. **SUBCONTRACTING.** If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work or Task Order attached to this Agreement as “Exhibit A”. Consultant is fully responsible for satisfactory completion of all its subcontractors’ work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **CONFLICT OF INTEREST.** Consultant covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Consultant’s Services under this Agreement. Consultant further covenants that in the performance of Services under this Agreement, no officer, employee or agent of Consultant having such interest shall be employed by it. In the event the City determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission

Form 700, Statement of Economic Interests, Consultant shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by Consultant may result in termination of this Agreement by the City.

30. **DISPUTES.** Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the City's Designated Representative, who shall reduce this decision to writing and mail a copy to the Consultant. The decision of the City's Designated Representative shall be final and conclusive unless Consultant requests mediation within ten (10) calendar days. Pending final decision of a dispute, the Consultant shall proceed diligently with the performance of the Agreement and in accordance with the decision of the City's Designated Representative.

31. **DISPUTE RESOLUTION.** Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an Agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until Agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. **ASSIGNMENT.** This Agreement is for the professional Services of Consultant. Any attempt by Consultant to assign the benefits or burdens of this Agreement without the prior written approval of City shall be prohibited and shall be null and void. Consultant 's Services pursuant to this Agreement shall be provided by the Consultant's Designated Representative or directly under his/her supervision, and Consultant shall not assign another to supervise the Consultant 's performance of this Agreement without the prior written approval of City, by and through the City's Designated Representative.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant's risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services or Task Orders set forth in Exhibit "A", Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **AUDIT.** City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant, or for other purposes relating to the Agreement. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of $10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Consultant shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Consultant shall include a copy of this Section in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

36. **ADVERTISING AND PUBLICITY.** Consultant shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

37. **NONDISCRIMINATORY EMPLOYMENT.** Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration

status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section.

38. **COVENANTS AND CONDITIONS.** Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

39. **WAIVER.** City's review or acceptance of, or payment for, work product prepared by Consultant under this Agreement will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Consultant's performance. A waiver by City of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

40. **FORCE MAJEURE.** Neither the Consultant nor the City shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the City.

41. **GOVERNING LAW.** The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.
42. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

43. **INTEGRATED AGREEMENT.** This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal Agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

44. **NO THIRD-PARTY BENEFICIARY.** This Agreement shall not be construed to be an Agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **EXECUTION – COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature or electronic signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

47. **INCONSISTENT OR CONFLICTING TERMS.** In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City and City's Designated Representative unless specifically agreed to in writing, and initiated by City's Designated Representative, as to each additional contractual term or condition.

48. **CAPTIONS AND HEADINGS.** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's Professional Services Agreement terms and conditions and insurance requirements and that Consultant hereby agrees to full compliance.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective on the date as written in Section 4 and upon signature of all Parties.

CITY OF OXNARD

☑Luis Mc Arthur, Mayor[1] Date
☐Jennifer Yates, Purchasing Manager[2]

ATTEST:

Lourdes A. López, City Clerk Date
(Only if Mayor authorizes)

APPROVED AS TO FORM:

Stephen M. Fischer, Date
City Attorney (always required)

GEOCON WEST, INC.

Neal Berliner, President Date

Gerry Kasman, Date
Vice President[3]

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000.

[2] The Purchasing Agent may execute any authorized agreement up to $200,000.

[3] The City requires the following for any contract:
● For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
● For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
● For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.
If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Geocon West, Inc.)

SCOPE OF SERVICES

PROJECT MANAGER: Petros Gazazyan / 805-509-9110 / petros.gazazyan@oxnard.org

The Consultant shall provide the following services at a minimum, and as requested:

1. Perform geotechnical investigations and/or evaluations of impacts to City facilities, infrastructure, as needed during the due diligence phase of property acquisition, and other facilities as requested. The report will include a detailed soils/site investigation and summarization of findings; borings/test pits locations, soil classifications, stratification, recommended soil bearing capacity, construction recommendation regarding excavation, cut and fill, and foundation, pavement, and slab design recommendations. The report will be signed and sealed by a State of California professional engineer. If, in the opinion of the geotechnical engineer, additional borings, testing, or data is required to adequately evaluate subsurface conditions, the geotechnical engineer shall notify the City before the start and completion of boring tests and leaving the site.

2. Review and/or development of geotechnical mitigation measures based on new or revised loading conditions on underground pipelines, facilities, and structures.

3. Work with the City's on-call Structural Engineer, upon Project Manager request, to provide geotechnical engineering services of City facilities, infrastructure, and other facilities during the initial assessment/inventory phase of major disaster post-event activities.

4. Assist the on call Structural Engineer with limited-scope feasibility assessments at the request of the City's Project Manager.

5. Provide geotechnical soil sampling, testing, and recommendations. All drilling and sampling operations for both disturbed and undisturbed samples shall be in accordance with recommended ASTM standards and other procedures as necessary to produce the information required for the report(s). The samples shall be preserved and field logs prepared either by a geotechnical engineer or by an experienced soil technician acting under the supervision of the geotechnical engineer. Before commencing any geotechnical investigation, the consultant will review and develop the number of borings needed, along with their location and depth.

6. Provide geotechnical design review services for capital projects. Provide general, technical consultation to City staff involved in design review and construction overview of capital projects.

7. As part of this annual contract, the successful proposers may be requested to respond on an emergency basis for foundation assessments immediately after a catastrophic event.

8. Attend project coordination meetings when requested by the City's Project Manager.

9. The Consultant shall secure all required City Permits prior to initiating any boring tests.

10. The geotechnical engineer shall contact and coordinate with all utility companies for information regarding buried utilities and structures, shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the geotechnical engineer's entry. Such restoration shall include, but not be limited to:

    a. Backfilling of borings, patching of slabs and pavements, and repair of lawns and plantings.
    b. Each boring should be plugged temporarily, pending additional groundwater readings if additional groundwater testing is necessary. At the completion of the groundwater readings, the boring shall be permanently plugged, including patching of slabs and pavements if required.
    c. When subsequent subsidence at the conventional backfilled holes could create a hazard, all boring and coring holes shall be grouted to the surface.

General categories and subcategories

Consultant must be ready to provide any of the following services or complete tasks as requested by the City when a task order is issued by a Project Manager. This list is not intended to be exhaustive, but rather should be a guide to the tasks that would typically be asked of a consultant selected under this subcategory for geotechnical engineering, hazardous material evaluation and material testing.

Subcategory 1:

Surface Exploration and Investigation for Geologic Setting, Soil and Geologic Conditions, Groundwater, Geologic Hazards, Seismicity, Site – Specific Ground Motion Hazard Analysis, Site Specific Shear Wave Velocity, etc. Liquefaction Potential, Soil Stabilization, Slope Stability, Earthquake-Induced Flooding and Oil Field & Methane Potential.

Typical tasks associated with this subcategory include, but not limited:

- Exploratory drilling
- Soil borings and sampling
- Percolation test
- Pavement Index Test
- Delineation/identification of subsurface contamination
- Type of contamination
- Geophysical explorations
- Groundwater investigations
- Soil stabilization through installation of stone columns in areas of high groundwater/liquefaction or any other method
- Rock/pavement Coring

Subcategory 2:

<u>Soil Classification and Laboratory Testing</u>

- Typical tasks associated with this subcategory include:
    - Classification of soil and rock types
    - Shear strength, expansion potential, and compressibility
    - Site Preparation
    - Comprehensive soils engineering services including all hazardous material determination including complete environmental assessment phase I & II.

<u>Construction Material & Laboratory Testing Scope of Services</u>

- Typical tasks associated with this category include, but not limited to:
    - Testing services as assigned for complete projects/tasks, before predesign, design & construction, during bid, during construction, and post construction. Assist the City in obtaining any all required permits related to this Service.
    - Inspection services, including but not limited to, specialty construction, grading deputy & deputy inspector and welding inspector before construction, during construction, and post construction; and including any requirements to provide inspections and testing at material manufacturing locations; as assigned for

complete project/tasks.

- ○ Obtain approval of any required permits, City, County, and State for this service.
- ○ Provide quality control.
- ○ Provide cost estimates for all related services to perform project/task order.
- ○ Perform analysis and provide reports of any and all samples of soils and materials, compaction results, and inspection results per project/task.
- ○ Review and assist in answering any RFI (Request for Information) that may be related to such samples and testing and inspection services. Also, review change order and provide recommendations.
- ○ Maintain good record keeping.
- ○ Provide a schedule of each task, overall schedule, and reporting process.
- ○ Keep communication as required with City staff and consultants.
- ○ Any other related duties as required by City staff related to these services.

The following are the examples of services, but not limited to:

- ● Nuclear gauge testing (soils and asphalt)
- ● Sand cone
- ● Sand equivalents
- ● Cone penetration Test
- ● Percolation tests
- ● Geophysical services such as surface wave measurements & others
- ● Concrete components and mix design
- ● Concrete/asphalt checking of production equipment and procedures concrete placement, curing and hardened specimens.
- ● Welding & rebar welding
- ● High strength bolts
- ● Data modeling

SERVICE OVERVIEW

The Consultant must have access to qualified, trained and, where required by the Code or government official certified and/or licensed personnel to accomplish these services on an on call as needed basis. Consultant must be able to provide such personnel in a timely manner, usually within a 24-48-hour window, but may on occasion need to provide on a call-out basis. The Consultant shall be responsible for the submittal and approval of its qualified personnel and procedures to be used under this Agreement to City staff prior to any initial work taking place under this Agreement. The Consultant shall be responsible for providing any and all copies of licenses, certifications and other such required documentation of proof of qualification, training and licensing of personnel to be used under this Agreement. Welding Inspector(s) must have excellent knowledge of welding processes including, but not limited to: Shielded Metal Arc Welding (SMAW), Gas Tungsten Arc Weld (GTAW) and Gas Metal Arc Welding (GMAW), Flux-Cored Arc Welding (FCAW), Plasma Arc Cutting (PAC), Submerged Arc Welding (SAW), One Sided Submerged Welding (OSW), Laser Beam Welding (LBW), Electroslag Welding (ESW), Resistance, brazing and soldering, oxygen and acetylene cutting; have ability to interpret codes and manufacturing standards American Welding Society (AWS), American Society of Mechanical Engineers (ASME), American Iron & Steel Institute (AISI), American National Standards Institute (ANSI), American Proficiency Testing (API), 1104,0831.1, AWS DI.I, ASME IX, V, VIII, and II A, B, C, E; Boiler and pressure vessel code; and American Society of Testing Materials (ASTM); vast knowledge of welding drawings, symbols, welding procedures, qualifications, welding specifications, NDE methods, PT, Magnetic Particle Testing (MT). Radiography Testing (RT), and Ultrasonic Testing (UT) Personnel to be used for this Service must be listed as Senior Certified Welding Inspection (SCWI), Certified Welding Inspector (CWI) or Certified Associate Welding Inspector (CAWI), as required for the assigned work scope, with the applicable licenses or certifications provided.

City of Oxnard
Insert Department Name
305 West Third Street, East Wing Oxnard, California 93030

TASK ORDER

All Task Orders must include a copy of the vendor proposal/estimate

Task Order No.:	Agreement No.:
Task Order NTE Amount:	Agreement NTE Amount:
City Purchase Order No.:	Agreement Type:
Prime Consultant:	Subconsultant(s):

PROJECT TITLE OR SPECIFICATION NO.:

PROJECT DESCRIPTION:

DESCRIPTION OF SERVICES TO BE PERFORMED UNDER THIS TASK ORDER:

TIME FOR COMPLETION OF SERVICES UNDER THIS TASK ORDER:

COMPENSATION FOR SERVICES SHALL NOT EXCEED THE TASK ORDER NTE AMOUNT.

City Project Manager:

Consultant Project Manager:

Services under this Task Order shall not proceed until this Task Order is executed by the City and Consultant and the City issues a Notice to Proceed. This Task Order may only be modified in writing and subject to City approval. Consultant shall not exceed the scope of the task order or NTE amount.

City of Oxnard		[Consultant]	
[designated rep]	Date	[Name & Title]	Date
Insert Department Assistant Director/Director	Date	[Name & Title]	Date

Account Number and Project Number	*Example 1011234-53200-CXXXX*

EXHIBIT B

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Geocon West, Inc.)

SCHEDULE OF COMPENSATION

PROFESSIONAL SERVICES

Geocon West Rate Schedule Escalations

Fiscal Years	2024 - 2025	2026 - 2027	2028 - 2029
Accounting Code	SBC-ANE25	SBC-ANE27	SBC-ANE29
Word Processor/Non-Technical Assistant/Draftsman/Dispatcher	$ 100.00	$ 105.00	$ 110.00
Engineering Assistant/Lab Technician.	$ 100.00	$ 105.00	$ 110.00
Engineering Field Technician (Earthwork/Compaction Testing/Backfill) *	$ 90.00	$ 95.00	$ 100.00
Special Inspector (Concrete, Rebar, Masonry, Welding, etc.) *	$ 95.00	$ 100.00	$ 105.00
Engineering Inspector (Bottom Approval / Shoring / Foundations / Piles) *	$ 115.00	$ 120.00	$ 125.00
LA City Deputy Grading Inspector (Bottom Approval / Shoring / Foundations /	$ 130.00	$ 135.00	$ 140.00
Piles) * Staff Engineer/Geologist *	$ 130.00	$ 135.00	$ 140.00
Senior Staff Engineer/Geologist *	$ 140.00	$ 145.00	$ 150.00
Project Engineer/Geologist *	$ 150.00	$ 155.00	$ 160.00
Senior Project Engineer/Geologist *	$ 160.00	$ 165.00	$ 170.00
Senior Engineer/Geologist *	$ 180.00	$ 185.00	$ 190.00
Associate Engineer/Geologist *	$ 205.00	$ 210.00	$ 215.00
Principal Engineer/Geologist/Litigation Support	$ 405.00	$ 410.00	$ 415.00
Attorney Fees (General)	$ 500.00	$ 500.00	$ 505.00
Deposition or Court Appearance	$ 550.00	$ 550.00	$ 510.00
Overtime/Saturday Rate/Night Rate (7pm – 6am w/ 8-Hour minimum per call out) 1.5 X Regular Hourly Rate			
Sunday and Holiday Rate 2 X Regular Hourly Rate			
Minimum Field Services Fee per call-out, 4 Hours (if 4 hours or less), 8 Hours (if more than 4 hours and less than 8 Hours)			
Short-Notice Cancellation, 4 Hours (if after 4 pm of the day prior to the scheduled inspection time)			
Short-Notice Cancellation, 4 Hours (upon or after arrival at jobsite)			
*Prevailing Wage (PW) California Labor Code §1720, et. Seq add	$ 50.00	$ 50.00	$ 60.00

TRAVEL

Personnel ..... Regular Hourly Rate
Subsistence (Per Diem) $305/day
Vehicle Mileage 0.75/mile

EQUIPMENT, MATERIALS, & ANALYTICAL TESTS

Nuclear Density Gauge / Sand Cone Testing Equipment $10/hr
Vehicle 10/hr
Special Inspection Equipment 5/hr
Asphalt Cold Patch/Concrete 30/bag
Double Ring Infiltrometer Equipment 200/day
GPS Unit 160/day
Pick-up Truck 150/day
Water Buffalo 75/day
Dynamic Cone Penetrometer 400/day
Hand-Auger 50/day
Distilled Water (5-gallon) 20/ea
Bailer (Reusable) 35/day
Bailer (Disposable) 15/ea
Stainless Sampling Pump $150/day
Battery-Powered Pump 75/day
Water Level Indicator 40/day
Interface Probe 125/day
Photo-Ionization Meter 150/day
Combustible Gas Meter 150/day
pH/Conductivity/Temperature Meter 150/day
Turbidity Meter 80/day
Air Sampling Pump 80/day
Level D PPE/Decon Rinse Equipment 50/day
Concrete Coring Equipment 285/day
Generator or Air Compressor 150/day

55-Gallon Drum 120/ea
Visqeen (6 mil 20X100') 135/roll
Traffic Cones/Barricades 35/day
TPHg(EPA 8015B) 70/ea
TPHd/TPHmo ..... (EPA 8015M) 75/ea
TPH Carbon Chain Breakdown ..... (EPA 8015M) 110/ea
Methanol and/or Ethanol (EPA 8015M) 125/ea
Volatile Organic Compounds ..... (EPA 8260B) 125/ea
Semi-Volatile Organic Compounds ..... (EPA 8270) 225/ea
PAHs (EPA 8270SIM) 185/ea
CAM 17 Metals (EPA 6010B) 170/ea
Single Metal ..... (EPA 6010B) 30/ea
Hexavalent Chrome (EPA 7199) 75/ea
Organochlorine Pesticides (EPA 8081) 110/ea
Organophosphorus Pesticides (EPA 8141) 125/ea
Chlorinated Herbicides (EPA 8151) 125/ea
PCBs (EPA 8082) 95/ea
Soil pH (EPA 9045C) 20/ea
WET or TCLP Extraction 85/ea
EPA 5035 Sample Kits 40/ea
Asbestos (PLM) 25/ea
Asbestos (400-point count) 50/ea
Sample Compositing 20/composite
48-hour Turnaround Time ..... 60% surcharge
72-hour Turnaround Time ..... 40% surcharge

LABORATORY TESTS*

COMPACTION CURVES
(D698/D1557/T99/T108) 4-inch mold..... $350/ea
(D698/D1557/T99/T108) 6-inch mold..... 350/ea
(CT 216) California Impact 350/ea
Check Point..... 150/ea
(D1632/CT312) Soil Cement Cyl. Fabrication (Set of 3) ... 200/set
(D1632/CT312) Soil Cement Cyl. Fabrication (Addtl. Spec.) 75/ea
(D1633/CT312) Soil Cement Comp. Strength (Set of 3) 350/set
(D1633/CT312) Soil Cement Comp. Strength (Addtl. Spec.) 125/ea

SOIL AND AGGREGATE STABILITY
(D2844/CT301) Resistance Value $400/ea
(D2844/CT301) Resistance Value, Treated 400/ea
(D1883) California Bearing Ratio 600/ea
(C977) Stabilization Ability of Lime 200/ea
(D1883) Calif. Bearing Ratio (Army Corp of Engineers) 600/ea

CHEMICAL ANALYSIS
(G187/CT643/T288) pH and Resistivity..... $200/ea
(D4972/T289) pH Only 100/ea
(CT417) Sulfate Content..... 150/ea
(CT422) Chloride Content 150/ea
(D2974) Organic Content 125/ea

PERMEABILITY, CONSOLIDATION AND EXPANSION
(D5084) Permeability, Flexible Wall..... $270/ea
(D5856) Permeability, Rigid Wall..... 260/ea
(D2434) Permeability, Constant Head..... 280/ea
(D2434) Permeability, FHA Slab-on-Grade 110/ea
(D2434) Permeability, Hourly 55/ea
(D2435/T216) Consolidation (6 pts. w/ Unload) 450/ea
(D2435/T216) Consolidation Additional Point w/ Unload ... 125/ea
(D2435/T216) Time Rate Consol. (6 pts. w/Unload) 1,000/ea
(D2435/T216) Time Rate Consol. Add'l. Point w/Unload ... 200/ea
(D4546) Swell/Compression Testing & Density 150/ea
(D4546) Swell/Settlement Testing & Density (ea. addtl. pt.) 100/ea
(D4546) Swell/Settlement Testing & Density (County) 150/ea
(D4546) Swell/Settlement Testing & Density (FHA) 100/ea
(D4829) Expansion Index of Soils..... 300/ea

STEEL TESTING
Reinforcing Steel Tests:
(A370) Tensile Strength & Elongation
#11 Bar & Smaller $125/ea
#14 Bar $150/ea
#18 Bar (Proof Test) $175/ea
(A370) Bend Test
#11 Bar & Smaller $75/ea
#14 & #18 Bar $100/ea
(A370) Tensile - Mechanically Spliced Bar
#11 Bar & Smaller $200/ea
#14 Bar & Larger..... $250/ea
(A370) Tensile – Electric Resist. Butt Splice w/ Control 200/ea
(A370) Straightening of bar (if required)..... 75/ea
Structural Steel Tests:
(A370) Machining & Prep of Test Specimen ..... Cost + 20%
(A370) Tensile Strength & Elongation
Up to 200,000 lbs..... $150/ea
200,000 – 300,000 lbs..... 175/ea
300,000 – 400,000 lbs..... 200/ea

SOIL AND AGGREGATE PROPERTIES
(D422/T88) Particle Size, Hydrometer w/out Sieve $300/ea
(C136/D6913/T27) Sieve, Coarse to Fine w/ #200 Wash 200/ea
(C136/D6913/T27) Sieve, Coarse or Fine w/ #200 Wash 175/ea
(C136/D6913/T27) Sieve, Coarse or Fine No #200 Wash 150/ea
(C117/D1140/T11) Materials Finer than #200 .....125/ea
(D2216/T265/CT226) Moisture Content 40/ea
(D2487/D2488) Visual Soil Classification 40/ea
(D2937) Density of In-Place Soil, Drive-Cyl. Method 50/ea
(D4943) Shrinkage Factors of Soils, Wax Method.....75/ea
(C131/C535/CT211) L.A. Abrasion Resistance $300/ea
(C142/T112) Clay Lumps and Friable Particles 155/ea

SOIL AND AGGREGATE PROPERTIES (CONTD.)
(C123/T113) Light Weight Particles 250/ea
(D3744/CT229/T210) Durability Index Fine 200/ea
(D3744/CT229/T210) Durability Index Coarse.....200/ea
(CT227) Cleanness Value.....200/ea
(D4791) Flat & Elongated Particles 200/ea
(D693/CT205) Percent Crushed Particles.....200/ea
(D5821) Percent. of Fractured Particles, Coarse Aggregate ..200/ea
(C40/CT213/T21) Organic Impurities 100/ea
(C235) Soft Hardness (Scratch Hardness) 125/ea
(C88/CT214/T104) Sulfate Soundness.....550/ea
(C1252/T304) Uncompact. Void Content, Fine Aggregate ...200/ea
(C127/CT206/T85) Coarse Specific Gravity 175/ea
(C128/CT207/T84) Fine Specific Gravity 200/ea
(D854/CT209/T100) Specific Gravity of Soil 225/ea
(C29/CT212/T19) Unit Weight & Percent Voids 125/ea
(D2419/CT217/T176) Sand Equivalent.....175/ea
(D4318/CT204/T89/T90) Plastic Index (Plastic/Liq. Limit) 275/ea
(D4318/CT204/T89) Liquid Limit 150/ea
(D4318/CT204/T90) Plastic Limit 150/ea
(C330) Spec. for Lightweight Aggregates, Struc. Concrete .. Quote

SHEAR STRENGTH
(D2166) Unconfined Compression.....$100/ea
(D3080/T236) Direct Shear (3 points) 400/set
(D3080/T236) Direct Shear Addtl. Points/ea. residual pass $150/ea
(D2850) Unconsolidated-Undrained Triaxial Shear 115/ea
(D2850) Unconsolidated-Undrained Triaxial Staged 160/ea
(D4767) Consolidated-Undrained Triaxial Shear 265/ea
(D4767) Consolidated-Undrained Triaxial Staged 340/ea
(EM1110) Consolidated-Drained Triaxial Shear 375/ea
(EM1110) Consolidated-Drained Triaxial Staged 480/ea

MASONRY**
Concrete Block Test (Sets of 3 Required):
(C140) Unit Weight Moisture Content & Absorption $350/ea
(C140) Moisture Content/Absorption (ea. addtl. specimen) 125/ea
(C140) Compression Test..... 300/ea
(C140) Compression Test (ea. addtl. specimen) 125/ea
(C426) Linear Drying Shrinkage 350/ea
(C109/UBC 21-16) Mortar Cylinder (2"x4") 30/ea
(C942) Grout Prism (3"x3"x6"), trimming included.....35/ea
Masonry Prism (Assemblage):
(C1314) 8"x8"x16" – 8"x12"x16" $200/ea
(C1314) 8"x16"x16" – 10"x12"x16" 225/ea

LABORATORY TESTS* (CONTINUED)

Pre-stressing Wire & Tendon Tests:
(A421) Tensile Strength, Single Wire..... $200/ea
(A416) Tensile Strength, 7-Wire Strand..... $250/ea
High Strength Bolt, Nut, & Washer Tests:
(A325/A490) Tensile Test on Bolts..... $125/ea
(A563) Proof Load Test on Nuts $125/ea
(A325/A490) Hardness Test on Bolts..... $75/ea
(A536) Hardness Test on Nuts..... $75/ea
(F436) Hardness Test on Washers..... $75/ea
Weld Specimen Tests:
(E164) Ultrasonic Examination ..... Quote
Machining & Prep of Test Specimen..... Cost + 20%
(E381) Macrotech Test (3 Faces) $355

ASPHALT TESTING

Asphalt Properties:
(D2726/CT308/T166) Bulk Spec. Grav. Compacted HMA $125/ea
(D1560/CT366) Stabilometer Value (HVEEM) $250/ea
(D2041) Theoretical Max Specific Gravity $200/ea
(D5444) Sieve Analysis of Extracted Asphalt $250/ea
(D6307/CT382) Percent Asphalt, Ignition Method..... $200/ea
(D1188) Unit Weight of Asphalt Core..... 110/ea

MISCELLANEOUS TESTING SERVICES

Calibration of Hydraulic Ram:
100 Ton & Under..... $300/ea
101 Tons – 200 Tons 400/ea
Use of Universal Testing Machine:
UTM with One Operator $450/ea
Additional Technician ..... Regular Tech Rate
Spray Applied Fireproofing:
(E605/E736) Fireproofing Oven Dry Density/Thickness ...$150/ea
(C1314) 12”x12”x16” – 12”x16”x16” 250/ea
(C1314) Larger than 12”x16”x16” ..... Quote
Brick Test (Set of 5 Specimens):
(C67) 24-Hour Absorption, Cold Water.....$250/set
(C67) 5-Hour Absorption, Boiling Water.....$250/set
(C67) Compression Test or Modulus of Rupture $300/set
(C67) Each Additional Specimen $100/ea

CONCRETE**

Mix Designs:
(ACI211/ACI214) Concrete Mix Design $450/ea
(ACI211/ACI214) Review of Concrete Mix Design.....$450/ea
(C192) Concrete Trial Mix (includes equipment & labor) ..$650/ea
Concrete Properties:
(C39/CT521/T22) Comp. Strength, Concrete Cyl. $30/ea
(C42/CT521/T22) Comp. Strength, Concrete/Gunite Core ...$60/ea
(C78/CT523) Flex. Strength of 6”x6”x21” Concrete Beam ..125/ea
(C174) Length Measuring of Drilled Cores.....$100/ea
(C1140) Shotcrete Panel-Coring & Testing (Set of 3).....$350/set
(C1140) Shotcrete Panel (each addtl. specimen) $125/ea
(C496) Static Modulus of Elasticity $250/ea
(C496) Drying Shrinkage (Set of 3, up to 28 days) $650/set
(C642) Spec. Gravity, Absorp., Voids in Hardened Concrete .95/ea
(F1869) Vapor Emission Rate, Concrete Subfloor 75/ea

***2X Surcharge on rush turn-around for laboratory testing.**
****Fee applies for sample storage, testing, or disposal.**

VIBRATION MONITORING SERVICES

Initial Set-Up & Baseline Readings (Each)……..…..$3,000
Installation (Two Stations)……...……..$3,500
Installation (Each Additional Station)……....…..$2,000
Meetings, Additional Reporting (Hourly)…..……....$160
Monitoring (Monthly)……$6,000
Monitoring (Weekly) ……..……$2,000
Monitoring (Daily) ……..……$500
Emergency Site Visit……..……..……$640

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Geocon West, Inc.)

INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of $1,000,000, with neither Consultant nor listed subconsultants having less than $500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

1/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG . $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
❒ COMMERCIAL GENERAL LIABILITY ❒ Claims Made
❒ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
❒ OWNERS & CONTRACTORS PROTECTIVE ❒ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
❒ GENERAL		
❒ PRODUCTS/COMPLETED OPERATIONS		
❒ PERSONAL & ADVERTISING INJURY		
❒ FIRE DAMAGE		
❒ _____		
❒ _____		

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____
Address: _____
_____
Telephone: (_____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)
Telephone: (____) _____ Date Signed: _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Geocon West, Inc.)

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard Consultant/Professional Services contracts that may be governed by the Living Wage Policy.

A. Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

D. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2024

Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. This hourly rate shall be adjusted on July 1, 2025, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

c. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Geocon West, Inc.)

PREVAILING WAGE

1. Consultant acknowledges that the Project defined in the Agreement between Consultant and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Consultant shall perform the Project as a public work. Consultant shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

3. Consultant is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).

4. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Consultant shall, as a penalty to City, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Consultant or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. Consultant shall comply with Labor Code Section 1776, which requires Consultant and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.

6. Consultant shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Consultant may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Consultant must immediately notify City.

8. Consultant is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.

9. Consultant acknowledges that 8 hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810.

10. Consultant shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Consultant shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Consultant's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. Consultant shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Consultant shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Consultant shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, Consultant shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Consultant, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Consultant under this Section shall survive Agreement termination.

EXHIBIT F
PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Geocon West, Inc.)

IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)

Public Contract Code Sections 2202-2208

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to,or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars ($1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of $250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entityidentified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engagedin investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

OPTION No.2 - EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institutionengaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

ON-CALL PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OXNARD AND SHANNON & WILSON, INC.

By This On-Call Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of Shannon & Wilson, Inc. ("Consultant"), and Consultant agrees to perform the Services for City as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. City and Consultant may be individually referred to as "Party" or collectively as the "Parties."

1. **[INTENTIONALLY OMITTED]**

2. **SUMMARY DESCRIPTION OF SERVICES.**
   The Services to be performed pursuant to this agreement are described in the Scope of Services, attached hereto as Exhibit A. The City may require Consultant to perform all or portion of these services through subsequently issued Task Orders. Task Orders will be in the form of the template described in and attached the Scope of Services. The Services under this agreement will be provided on an on-call or as needed basis.

   Consultant is not be the exclusive provider of services to the City. The City does not guarantee a specified amount of work under this on-call agreement.

3. **PARTIES.**

   City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030.

   Shannon & Wilson, Inc., a corporation/LLC/LLP of the State of Washington, located at 400 N. 34th St., Suite 100, Seattle, WA 98103.

4. **TERM OF AGREEMENT:** From: February 19, 2025 To: February 18, 2026

   A. Time is of the essence in this Agreement
   B. The City shall have the option to exercise (4) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.

C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.

D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. **AGREEMENT AMOUNT NOT TO EXCEED:** $1,000,000. 00[1]

6. **AGREEMENT EXHIBITS**. The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services and Task Order Template
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage Policy
Exhibit F: Iran Contracting Certification

7. **DESIGNATED REPRESENTATIVES.** The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the Services under this Agreement. Additionally, Consultant's Services shall be performed or immediately supervised by the Consultant's Representative:

City Designated Representative	Consultant Designated Representative
Name: Morgan Kessler Title: City Engineer Phone: 805-385-7880 Email morgan.kessler@oxnard.org Address: 305 W. Third St., East Wing, 2nd Fl., Oxnard, CA 93030	Name: Steve Diem Title: Contract Manager Phone: 818-539-8418 Email: Steve.Diem@shanwil.com Address: 100 North 1st Street, Ste 200, Burbank, CA 91502

8. **CONTRACTUAL PREREQUSITIES.** This Agreement must first be executed by the Consultant, after which the Agreement shall be approved as to form by the City

[1] This is not a guaranteed dollar amount. No services or work performed pursuant to a Task Order shall exceed the "Not to Exceed" Amount of the Contract or the agreed upon amount stated in the Task Order.

Attorney, then executed by the Mayor, or an authorized person on behalf of the City, and if executed by the Mayor shall also be executed by the City Clerk.

A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by the City.
B. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.
C. Consultant shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

9. CONSULTANT'S SERVICES.

A. Consultant shall perform only the type or category of services as set forth in the "Scope of Services," and pursuant to the information contained in the Task Orders issued pursuant to this agreement.
B. Task Orders may only be modified in writing by the City's Project Manager or Designated Representative.
C. The Services issued pursuant to a Task Order shall be coordinated with the designated City Project Manager set forth in Exhibit A and are subject to the direction of the City Manager or Department Director. Consultant hereby designates as its Project Manager, the individual identified in Section 7 of this Agreement, as the person responsible for the Services who shall coordinate with City's Project Manager in executing the Scope of Services and Task Order(s) under this Agreement.
D. Under no circumstances shall the Consultant exceed the amount stated in the City's Task Order or perform additional work or services that are not included in the Task Order

10. COMPENSATION. City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and based on the hourly rates and fees set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." Consultant's compensation shall not to exceed amount stated in the Task Order. Under no circumstances shall the Consultant perform work in excess of the amount stated in the Task Order or the not to exceed amount listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

A. The maximum not to exceed amount for any individual Task Order issued pursuant to this Agreement shall be $100,000.00 per Task Order or $200,000, if the Task Order is associated with an identified and approved Capitol Improvement Project.
B. Annual Rate and Fees adjustments must be requested in writing and shall not exceed 3% and are subject to approval by the City. Annual adjustments shall apply to Task Orders issued after the adjustment is approved and not retroactively to in progress Task Orders.

11. PAYMENT and INVOICES. The City shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the City disputes one or more items in an invoice, the City shall, within thirty (30) days after receipt of such invoice, notify the Consultant of the item(s) being disputed and the reason(s) therefore. The City may withhold payment for such disputed items until resolution of the dispute.

A. Payment Request. Consultant shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **pwengineeringap@oxnard.org**.
B. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontracted Consultants.
C. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.
D. **Non-Appropriation of Funds.** Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and

unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this Agreement. The initial term, plus any option to extend shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 4(B), then this Agreement shall not be extended.**

13. **MODIFICATION OF AGREEMENT.** This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement or any Task Order issued under this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services under this Agreement or Task Order.

14. **TERMINATION OF AGREEMENT.** City may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 22 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. City shall be liable to Consultant only for work done by Consultant up to and including the date of termination of this Agreement unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant may terminate this Agreement at any time during the term of the Agreement by giving the City sixty (60) calendar days' prior written notice.

15. **[RESERVED]**

16. **INDEPENDENT CONTRACTOR.** Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or

agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any Services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such Services shall not materially interfere with the Services the Consultant shall perform for the City. The City retains the right to provide general instructions to and observe the Consultant in the performance of all Services done on behalf of the City.

Consultant and its employees, subconsultants, and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant T and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. **LAWFUL PERFORMANCE.** Consultant shall abide by all federal, state, and local laws and regulations as may be related to the performance of duties under this Agreement. Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Services under this Agreement.

18. **SAFETY REQUIREMENTS.** Consultant shall not perform any Services for the City when the Consultant is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the City's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The City reserves the right to issue restraining or cease and desist orders to Consultant when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of

Consultant 's work by City shall not operate as a release of the Consultant from such standard of care and workmanship.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

    A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
    (1) Has thoroughly reviewed and considered the services and work to be performed; and
    (2) Has reviewed the issues regarding the Scope of Services and Task Orders to be provided; and
    (3) Has carefully considered how the services and related work should be performed; and
    (4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. **OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY.** City shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by Consultant in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by City.

    A. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the Consultant pursuant to or in connection with this Agreement shall be the exclusive property of the City.
    B. Deliverables. Consultant shall deliver to the City the studies, plans, specifications, or other documents as are identified in the Scope of Services or Task Order; and Consultant shall, upon completion of all work or termination of this Agreement, submit to the City all information developed in the course of the Consultant 's services. Consultant shall,

in such time and in such form as the City may require, furnish reports concerning the status of Services required under this Agreement. Consultant shall, upon request by City and upon completion or termination of this Agreement, deliver to the City all material furnished to Consultant by the City.

C. Records and Inspections**.** The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The City shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

D. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. Consultant may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for Consultant to perform its obligations pursuant to this Agreement. If Consultant is granted such access to confidential information, Consultant shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.

E. Disclosure of Information. Consultant shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to Consultant by the City or other information to which the Consultant has had access during the term of this Agreement without the prior written approval of the City's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

F. No Warranty. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Consultant in reliance on any Confidential Information disclosed under this Agreement.

21. **NOTICE OF BREACH AND OPPORTUNITY TO CURE.** Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

22. **NOTICE.** All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 7. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

23. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE.** Except as set forth in Subsection A of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City (collectively "Claims") which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

    A. The provisions of this Subsection apply only in the event that Consultant is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in

accordance with the applicable provisions of the California Business and Professions Code.

(1) Notwithstanding the provisions of Section 23 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, Consultant's duty to indemnify, hold harmless, and defend the City Indemnitees shall be limited to the extent that any Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

(2) In no event shall the costs of defense charged to Consultant exceed the Consultant's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

24. INSURANCE. Consultant shall obtain and maintain during the performance of any Services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Consultant shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. LIVING WAGE REQUIREMENTS. During the term of this Agreement, Consultant understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, Consultant will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the Services provided for by this Agreement. The Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. PREVAILING WAGE REQUIREMENTS. The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees. For further information regarding Prevailing Wage Requirements please refer to Exhibit "E" attached to this Agreement.

A. To determine if this Agreement is subject to compliance monitoring and enforcement, go to: https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html
B. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.
C. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the Consultant.

27. IRAN CONTRACTING ACT. In accordance with the Iran Contract Act of 2010 (Public Contract Code sections 2200-2208) the City requires that any Consultant that submits a proposal or otherwise proposes to enter into or renew a contract with the City with respect to goods or Services of one million dollars ($1,000,000) or more, must certify, that the Consultant is not identified on a list created pursuant to subdivision (b) of Public Contract Code Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Public Contract Code Section 2202.5, or as a person described in subdivision (b) of Public Contract Code Section 2202.5, as applicable.

A Consultant is ineligible to enter into any contract with the City for goods or Services of one million dollars ($1,000,000) or more if the Consultant engages in investment activities in Iran. Consultant must certify that it is not on the list of ineligible vendors prohibited from doing business with the State of California and shall complete the Iran Contract Act Certification attached as Exhibit F.

28. **SUBCONTRACTING.** If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work or Task Order attached to this Agreement as “Exhibit A”. Consultant is fully responsible for satisfactory completion of all its subcontractors’ work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **CONFLICT OF INTEREST.** Consultant covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Consultant’s Services under this Agreement. Consultant further covenants that in the performance of Services under this Agreement, no officer, employee or agent of Consultant having such interest shall be employed by it. In the event the City determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Consultant shall file such Form 700 with the City Clerk’s Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by Consultant may result in termination of this Agreement by the City.

30. **DISPUTES.** Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the City’s Designated Representative, who shall reduce this decision to writing and mail a copy to the Consultant. The decision of the City’s Designated Representative shall be final and conclusive unless Consultant requests mediation within ten (10) calendar days. Pending final decision of a dispute, the Consultant shall proceed diligently with the performance of the Agreement and in accordance with the decision of the City’s Designated Representative.

31. **DISPUTE RESOLUTION.** Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an Agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a “blindfold” process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until Agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. **ASSIGNMENT.** This Agreement is for the professional Services of Consultant. Any attempt by Consultant to assign the benefits or burdens of this Agreement without the prior written approval of City shall be prohibited and shall be null and void. Consultant 's Services pursuant to this Agreement shall be provided by the Consultant’s Designated Representative or directly under his/her supervision, and Consultant shall not assign another to supervise the Consultant 's performance of this Agreement without the prior written approval of City, by and through the City’s Designated Representative.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant’s risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services or Task Orders set forth in Exhibit “A”, Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **AUDIT.** City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant, or for other purposes

relating to the Agreement. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of $10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Consultant shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Consultant shall include a copy of this Section in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

36. **ADVERTISING AND PUBLICITY.** Consultant shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

37. **NONDISCRIMINATORY EMPLOYMENT.** Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section.

38. **COVENANTS AND CONDITIONS.** Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

39. **WAIVER.** City's review or acceptance of, or payment for, work product prepared by Consultant under this Agreement will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Consultant's performance. A waiver by City of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any

subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

40. **FORCE MAJEURE.** Neither the Consultant nor the City shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the City.

41. **GOVERNING LAW.** The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.
42. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

43. **INTEGRATED AGREEMENT.** This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal Agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

44. **NO THIRD-PARTY BENEFICIARY.** This Agreement shall not be construed to be an Agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **EXECUTION – COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature or electronic signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to

this Agreement is in the physical possession of the Party seeking enforcement thereof.

47. **INCONSISTENT OR CONFLICTING TERMS.** In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City and City's Designated Representative unless specifically agreed to in writing, and initiated by City's Designated Representative, as to each additional contractual term or condition.

48. **CAPTIONS AND HEADINGS.** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's Professional Services Agreement terms and conditions and insurance requirements and that Consultant hereby agrees to full compliance.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective on the date as written in Section 4 and upon signature of all Parties.

CITY OF OXNARD

☑Luis Mc Arthur, Mayor[1] Date
☐Jennifer Yates, Purchasing Manager[2]

SHANNON & WILSON, INC.

Greg Fischer, President Date

Travis Deane, Vice President[3] Date

ATTEST:

Lourdes A. López, City Clerk Date
(Only if Mayor authorizes)

APPROVED AS TO FORM:

Stephen M. Fischer, City Attorney (always required) Date

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000.

[2] The Purchasing Agent may execute any authorized agreement up to $200,000.

[3] The City requires the following for any contract:

● For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
● For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
● For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.

If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Shannon & Wilson, Inc.)

SCOPE OF SERVICES

PROJECT MANAGER: Petros Gazazyan / 805-509-9110/ petros.gazazyan@oxnard.org

The Consultant shall provide the following services at a minimum, and as requested:

1. Perform geotechnical investigations and/or evaluations of impacts to City facilities, infrastructure, as needed during the due diligence phase of property acquisition, and other facilities as requested. The report will include a detailed soils/site investigation and summarization of findings; borings/test pits locations, soil classifications, stratification, recommended soil bearing capacity, construction recommendation regarding excavation, cut and fill, and foundation, pavement, and slab design recommendations. The report will be signed and sealed by a State of California professional engineer. If, in the opinion of the geotechnical engineer, additional borings, testing, or data is required to adequately evaluate subsurface conditions, the geotechnical engineer shall notify the City before the start and completion of boring tests and leaving the site.

2. Review and/or development of geotechnical mitigation measures based on new or revised loading conditions on underground pipelines, facilities, and structures.

3. Work with the City's on-call Structural Engineer, upon Project Manager request, to provide geotechnical engineering services of City facilities, infrastructure, and other facilities during the initial assessment/inventory phase of major disaster post-event activities.

4. Assist the on call Structural Engineer with limited-scope feasibility assessments at the request of the City's Project Manager.

5. Provide geotechnical soil sampling, testing, and recommendations. All drilling and sampling operations for both disturbed and undisturbed samples shall be in accordance with recommended ASTM standards and other procedures as necessary to produce the information required for the report(s). The samples shall be preserved and field logs prepared either by a geotechnical engineer or by an experienced soil technician acting under the supervision of the geotechnical engineer. Before commencing any geotechnical investigation, the consultant will review and develop the number of borings needed, along with

their location and depth.

6. Provide geotechnical design review services for capital projects. Provide general, technical consultation to City staff involved in design review and construction overview of capital projects.

7. As part of this annual contract, the successful proposers may be requested to respond on an emergency basis for foundation assessments immediately after a catastrophic event.

8. Attend project coordination meetings when requested by the City's Project Manager.

9. The Consultant shall secure all required City Permits prior to initiating any boring tests.

10. The geotechnical engineer shall contact and coordinate with all utility companies for information regarding buried utilities and structures, shall take all reasonable precautions to prevent damage to property, visible and concealed, and shall reasonably restore the site to the condition existing prior to the geotechnical engineer's entry. Such restoration shall include, but not be limited to:

    a. Backfilling of borings, patching of slabs and pavements, and repair of lawns and plantings.
    b. Each boring should be plugged temporarily, pending additional groundwater readings if additional groundwater testing is necessary. At the completion of the groundwater readings, the boring shall be permanently plugged, including patching of slabs and pavements if required.
    c. When subsequent subsidence at the conventional backfilled holes could create a hazard, all boring and coring holes shall be grouted to the surface.

General categories and subcategories

Consultant must be ready to provide any of the following services or complete tasks as requested by the City when a task order is issued by a Project Manager. This list is not intended to be exhaustive, but rather should be a guide to the tasks that would typically be asked of a consultant selected under this subcategory for geotechnical engineering, hazardous material evaluation and material testing.

Subcategory 1:

Surface Exploration and Investigation for Geologic Setting, Soil and Geologic Conditions, Groundwater, Geologic Hazards, Seismicity, Site – Specific Ground Motion Hazard Analysis, Site Specific Shear Wave Velocity, etc. Liquefaction Potential, Soil Stabilization, Slope Stability, Earthquake-Induced Flooding and Oil Field & Methane Potential.

Typical tasks associated with this subcategory include, but not limited:

- Exploratory drilling
- Soil borings and sampling
- Percolation test
- Pavement Index Test
- Delineation/identification of subsurface contamination
- Type of contamination
- Geophysical explorations
- Groundwater investigations
- Soil stabilization through installation of stone columns in areas of high groundwater/liquefaction or any other method
- Rock/pavement Coring

Subcategory 2:

<u>Soil Classification and Laboratory Testing</u>

- Typical tasks associated with this subcategory include:
    - Classification of soil and rock types
    - Shear strength, expansion potential, and compressibility
    - Site Preparation
    - Comprehensive soils engineering services including all hazardous material determination including complete environmental assessment phase I & II.

<u>Construction Material & Laboratory Testing Scope of Services</u>

- Typical tasks associated with this category include, but not limited to:
    - Testing services as assigned for complete projects/tasks, before predesign, design & construction, during bid, during construction, and post construction. Assist the City in obtaining any all required permits related to this Service.
    - Inspection services, including but not limited to, specialty construction, grading deputy & deputy inspector and welding inspector before construction, during construction, and post construction; and including any requirements to provide inspections and testing at material manufacturing locations; as assigned for complete project/tasks.

- ○ Obtain approval of any required permits, City, County, and State for this service.
- ○ Provide quality control.
- ○ Provide cost estimates for all related services to perform project/task order.
- ○ Perform analysis and provide reports of any and all samples of soils and materials, compaction results, and inspection results per project/task.
- ○ Review and assist in answering any RFI (Request for Information) that may be related to such samples and testing and inspection services. Also, review change order and provide recommendations.
- ○ Maintain good record keeping.
- ○ Provide a schedule of each task, overall schedule, and reporting process.
- ○ Keep communication as required with City staff and consultants.
- ○ Any other related duties as required by City staff related to these services.

The following are the examples of services, but not limited to:

- Nuclear gauge testing (soils and asphalt)
- Sand cone
- Sand equivalents
- Cone penetration Test
- Percolation tests
- Geophysical services such as surface wave measurements & others
- Concrete components and mix design
- Concrete/asphalt checking of production equipment and procedures concrete placement, curing and hardened specimens.
- Welding & rebar welding
- High strength bolts
- Data modeling

SERVICE OVERVIEW

The Consultant must have access to qualified, trained and, where required by the Code or government official certified and/or licensed personnel to accomplish these services on an on call as needed basis. Consultant must be able to provide such personnel in a timely manner, usually within a 24-48-hour window, but may on occasion need to provide on a call-out basis. The Consultant shall be responsible for the submittal and approval of its qualified personnel and procedures to be used under this Agreement to

City staff prior to any initial work taking place under this Agreement. The Consultant shall be responsible for providing any and all copies of licenses, certifications and other such required documentation of proof of qualification, training and licensing of personnel to be used under this Agreement. Welding Inspector(s) must have excellent knowledge of welding processes including, but not limited to: Shielded Metal Arc Welding (SMAW), Gas Tungsten Arc Weld (GTAW) and Gas Metal Arc Welding (GMAW), Flux-Cored Arc Welding (FCAW), Plasma Arc Cutting (PAC), Submerged Arc Welding (SAW), One Sided Submerged Welding (OSW), Laser Beam Welding (LBW), Electroslag Welding (ESW), Resistance, brazing and soldering, oxygen and acetylene cutting; have ability to interpret codes and manufacturing standards American Welding Society (AWS), American Society of Mechanical Engineers (ASME), American Iron & Steel Institute (AISI), American National Standards Institute (ANSI), American Proficiency Testing (API), 1104,0831.1, AWS DI.I, ASME IX, V, VIII, and II A, B, C, E; Boiler and pressure vessel code; and American Society of Testing Materials (ASTM); vast knowledge of welding drawings, symbols, welding procedures, qualifications, welding specifications, NDE methods, PT, Magnetic Particle Testing (MT). Radiography Testing (RT), and Ultrasonic Testing (UT) Personnel to be used for this Service must be listed as Senior Certified Welding Inspection (SCWI), Certified Welding Inspector (CWI) or Certified Associate Welding Inspector (CAWI), as required for the assigned work scope, with the applicable licenses or certifications provided.

City of Oxnard

Insert Department Name

305 West Third Street, East Wing Oxnard, California 93030

TASK ORDER

All Task Orders must include a copy of the vendor proposal/estimate

Task Order No.:	Agreement No.:
Task Order NTE Amount:	Agreement NTE Amount:
City Purchase Order No.:	Agreement Type:
Prime Consultant:	Subconsultant(s):

PROJECT TITLE OR SPECIFICATION NO.:

PROJECT DESCRIPTION:

DESCRIPTION OF SERVICES TO BE PERFORMED UNDER THIS TASK ORDER:

TIME FOR COMPLETION OF SERVICES UNDER THIS TASK ORDER:

COMPENSATION FOR SERVICES SHALL NOT EXCEED THE TASK ORDER NTE AMOUNT.

City Project Manager:

Consultant Project Manager:

Services under this Task Order shall not proceed until this Task Order is executed by the City and Consultant and the City issues a Notice to Proceed. This Task Order may only be modified in writing and subject to City approval. Consultant shall not exceed the scope of the task order or NTE amount.

City of Oxnard		[Consultant]	
[designated rep]	Date	[Name & Title]	Date
Insert Department Assistant Director/Director	Date	[Name & Title]	Date

Account Number and Project Number	*Example 1011234-53200-CXXXX*

2024 FEE SCHEDULE – LOS ANGELES OFFICE

Fees for Professional Services

Classification Title	Regular Rate per hour	Overtime Rate per hour
Officers / Associates		
Senior Vice President	$325.00	
Vice President	$290.00	
Senior Associate	$265.00	
Associate	$235.00	
Engineering / Geology / Hydrology / Environmental		
Senior Professional III	$215.00	
Senior Professional II	$190.00	
Senior Professional I	$170.00	
Professional IV	$150.00	
Professional III	$140.00	
Professional II	$130.00	
Professional I	$120.00	
Field and Lab Technician / Drafter / Technical Assistant		
DGI and Senior Technical Services	$140.00	$175.00
Technical Services (IV,III)	$120.00	$144.00
Technical Services (II, I)	$90.00	$106.00
Administrative		
Office Services (Senior, V, IV)	$150.00	$185.00
Office Services (III, II)	$105.00	$130.00
Office Services (I)	$90.00	$110.00
Special Services		
Senior Consultant	*as quoted*	
Consultant	*as quoted*	
Instrumentation Specialist	$200.00	

Vehicles	Rate per hour	Rate per day
Trucks and Field Vehicles	$25.00	up to $200
Personal Vehicles	*per federal mileage rate*	

Expert Testimony

Hourly rates will be doubled for time spent actually providing expert testimony in court or depositions.

Field Equipment and Laboratory Testing

See separate schedule.

Professional Staff Rates

Per Hour Unless Otherwise Noted

Engineering and Consulting

Classification	Rate				
	7/1/2024-6/30/2025	7/1/2025-6/30/2026	7/1/2026-6/30/2027	7/1/2027-6/30/2028	7/1/2028-6/30/2029
Principal / Project Director	$235.00	$246.75	$259.09	$272.04	$285.64
Registered Engineer	$225.00	$236.25	$248.06	$260.47	$273.49
Quality Program Manager	$220.00	$231.00	$242.55	$254.68	$267.41
Project Technical Advisor	$215.00	$225.75	$237.04	$248.89	$261.33
Project Manager	$205.00	$215.25	$226.01	$237.31	$249.18
Staff Engineer	$174.00	$182.70	$191.84	$201.43	$211.50
Laboratory Manager	$131.00	$137.55	$144.43	$151.65	$159.23
Laboratory Technician	$110.00	$115.50	$121.28	$127.34	$133.71
Administrative	$65.00	$68.25	$71.66	$75.25	$79.01

Field Inspection and Technician Services

Classification	Rate				
	Test	7/1/2025-6/30/2026	7/1/2026-6/30/2027	7/1/2027-6/30/2028	7/1/2028-6/30/2029
Quality Control Manager	$170.00	$178.50	$187.43	$196.80	$206.64
Public Works Inspector	$163.00	$171.15	$179.71	$188.69	$198.13
ICC Soils Inspector/Grading Inspector/LA Deputy	$167.00	$175.35	$184.12	$193.32	$202.99
ICC Structural Concrete/Masonry Inspector	$167.00	$175.35	$184.12	$193.32	$202.99
Roadway Inspector	$167.00	$175.35	$184.12	$193.32	$202.99
Structures Inspector	$167.00	$175.35	$184.12	$193.32	$202.99
HMA / Concrete Batch Plant Inspector	$163.00	$171.15	$179.71	$188.69	$198.13
Source Materials Fabrication Inspector	$167.00	$175.35	$184.12	$193.32	$202.99
Quality Assurance / Quality Control Technician	$163.00	$171.15	$179.71	$188.69	$198.13
AWS Certified Welding Inspector	$167.00	$175.35	$184.12	$193.32	$202.99
NDE Inspection (ASNT, NDT, UT/MT/PT)	$190.00	$199.50	$209.48	$219.95	$230.95
Coating Inspection (NACE II)	$187.00	$196.35	$206.17	$216.48	$227.30

Office Administrative Fees

Classification	Rate				
	7/1/2024-6/30/2025	7/1/2025-6/30/2026	7/1/2026-6/30/2027	7/1/2027-6/30/2028	7/1/2028-6/30/2029
Monthly Certified Payroll Report	$150	$157.50	$165.38	$173.64	$182.33
Final Geotechnical or Design Report Replicate Copy	$275	$288.75	$303.19	$318.35	$334.26
Overnight Mail (cost plus 15%)	15%	15%	15%	15%	15%

Equipment Usage Per **Day** Unless Otherwise Noted					
Equipment/Vehicle					
Classification	**Rate**				
	7/1/2024-6/30/2025	**7/1/2025-6/30/2026**	**7/1/2026-6/30/2027**	**7/1/2027-6/30/2028**	**7/1/2028-6/30/2029**
Drilling/Sampling Equipment	By quote				
Concrete/Asphalt Coring Equipment	$583.00	$612.15	$642.76	$674.90	$708.64
Ground penetrating radar	$299.00	$313.95	$329.65	$346.13	$363.44
Magnetic Imaging Technology Scanner (MIT dowel bar Scanner) (per hour)	$210.00	$220.50	$231.53	$243.10	$255.26
Pavement Inertial Profiling truck (per hour)	$236.00	$247.80	$260.19	$273.20	$286.86
Caltrans Rapid Strength Concrete Testing Mobile Laboratory	$473.00	$496.65	$521.48	$547.56	$574.93
Onsite Project Mobile Laboratory	By quote				
Travel and Miscellaneous					
Remote Project Subsistence	Test				
Travel Time (billed Portal to Portal at hourly billing rate of the individual)	By quote				
Overtime and Saturday Rate	1.5x Hourly Rate				
Double-time, Sunday and Holiday Rate	2.0x Hourly Rate				
Less than 12 Hour Notice Scheduling Surcharge	Standard Rate plus 50%				

Laboratory Sample Handling Per Hour Unless Otherwise Noted					
Sample Pick-Up					
Classification	**Rate**				
	7/1/2024-6/30/2025	**7/1/2025-6/30/2026**	**7/1/2026-6/30/2027**	**7/1/2027-6/30/2028**	**7/1/2028-6/30/2029**
Sample Pick-Up Trip (within 100 miles of closest G3 Laboratory Flat Rate)	$200.00	$210.00	$220.50	$231.53	$243.10
Saturday or Sunday Sample Pick-Up Trip (within 100 miles of closest G3 Laboratory Flat Rate)	$330.00	$346.50	$363.83	$382.02	$401.12
Rush Charges for Laboratory Services Note: Available for Certain Tests at the Following Premiums Above List Price					
Classification	**Rate**				
Same Day Service (dependent on availability)	100%				
1 Day Turnaround	80%				
2 Day Turnaround	60%				
3 Day Turnaround	40%				
4 Day Turnaround	25%				

Laboratory Testing Services

Concrete Tests (Field Made Specimens)

Test	Test Method	Invoice Code	Rate				
			7/1/2024-6/30/2025	7/1/2025-6/30/2026	7/1/2026-6/30/2027	7/1/2027-6/30/2028	7/1/2028-6/30/2029
Coefficient of Thermal Expansion	AASHTO T-336	5000	$735.00	$771.75	$810.34	$850.85	$893.40
Core Compression (including trimming)	ASTM C42/C39	5001	$100.00	$105.00	$110.25	$115.76	$121.55
Cylinder: Compression Strength - 6" x 12" or 4" x 8"	ASTM C39, CTM 521, AASHTO T22	5002	$45.00	$47.25	$49.61	$52.09	$54.70
Cylinder: Tested out of Sequence - 6" x 12" or 4" x 8"	ASTM C39, CTM 521, AASHTO T22	5003	$51.00	$53.55	$56.23	$59.04	$61.99
Density, Absorption, and Voids in Hardened Concrete	ASTM C642	5004	$407.00	$427.35	$448.72	$471.15	$494.71
Flexural Beams Not Exceeding Ref. Size of 6"x6"x18"	ASTM C78, CTM 523, AASHTO T97, ASTM C1609	5005	$87.00	$91.35	$95.92	$100.71	$105.75
Modulus of Elasticity Test	ASTM C469	5006	$237.00	$248.85	$261.29	$274.36	$288.07
Splitting Tensile Strength: Cylinders	ASTM C496	5007	$116.00	$121.80	$127.89	$134.28	$141.00
Measuring Thickness of Concrete Elements Using Drilled Cores (Per Core)	ASTM C174 / CTM 531	5011	$52.00	$54.60	$57.33	$60.20	$63.21
Drying Shrinkage (28 Days), 5 Readings up to 28 Dry Days	AASHTO T160 / ASTM C157 Modified	5009	$636.00	$667.80	$701.19	$736.25	$773.06
• Additional Reading, Per Set of Three Bars	AASHTO T160 / ASTM C157 Modified	5009.1	$63.00	$66.15	$69.46	$72.93	$76.58
• Storage over Ninety (90) Days, Per Set of Three Bars, Per Month	AASHTO T160 / ASTM C157 Modified	5009.2	$37.00	$38.85	$40.79	$42.83	$44.97

Concrete Specimen Preparation

Test	Test Method	Invoice Code	Rate				
			7/1/2024-6/30/2025	7/1/2025-6/30/2026	7/1/2026-6/30/2027	7/1/2027-6/30/2028	7/1/2028-6/30/2029
Coring of Test Panels in Lab (Each)		5100	$67.00	$70.35	$73.87	$77.56	$81.44
Diamond Sawing of Cores or Cylinders (Each)		5101	$45.00	$47.25	$49.61	$52.09	$54.70

Concrete Mix Design and Laboratory Trial Batch

Test	Test Method	Invoice Code	Rate				
			7/1/2024-6/30/2025	7/1/2025-6/30/2026	7/1/2026-6/30/2027	7/1/2027-6/30/2028	7/1/2028-6/30/2029
Concrete Laboratory Trial Batch	ASTM C192	5200	By Quote				
Concrete Laboratory Mix Study	ASTM C192	5201	By Quote				
Lab Drying Shrinkage (28 days Wet/28 Day Dry), 5 Readings	ASTM C157	5202	$656.00	$688.80	$723.24	$759.40	$797.37
Lab Drying Shrinkage (Up to 28 days), 5 Readings	AASHTO T160 / ASTM C157 Modified	5203	$607.00	$637.35	$669.22	$702.68	$737.81
• Additional Reading, Per Set of Three Bars	AASHTO T160 / ASTM C157 Modified	5203.1	$63.00	$66.15	$69.46	$72.93	$76.58
• Storage over Ninety (90) Days, Per Set of Three Bars, Per Month	AASHTO T160 / ASTM C157 Modified	5203.2	$37.00	$38.85	$40.79	$42.83	$44.97
Time of Set (Up to 8 hours)	ASTM C403	5204	$200.00	$210.00	$220.50	$231.53	$243.10
Laboratory Concrete Mix Study	ASTM C192	5205	By Quote				
Potential Alkali Reactivity of Aggregates (Mortar-Bar Method) – Fine Aggregate	ASTM C1260	5206	$1,000.00	$1,050.00	$1,102.50	$1,157.63	$1,215.51
Potential Alkali Reactivity of Aggregates (Mortar-Bar Method) – Coarse Aggregate	ASTM C1260	5207	$1,200.00	$1,260.00	$1,323.00	$1,389.15	$1,458.61
Potential Alkali-Silica Reactivity of Aggregate Combinations – Accelerated Mortar Bar Method	ASTM C1567	5208	$1,200.00	$1,260.00	$1,323.00	$1,389.15	$1,458.61
Unit Weight Including Lightweight Concrete, Air Dry Method	ASTM C567	5209	$125.00	$131.25	$137.81	$144.70	$151.94

Unit Weight Including Lightweight Concrete, Oven Dry Method	ASTM C567	5210	$110.00	$115.50	$121.28	$127.34	$133.71
Masonry, Prisms, Mortar, and Grout							
Test	**Test Method**	**Invoice Code**	**Rate**				
			7/1/2024-6/30/2025	**7/1/2025-6/30/2026**	**7/1/2026-6/30/2027**	**7/1/2027-6/30/2028**	**7/1/2028-6/30/2029**
Absorption of Masonry Block (set of 3)	ASTM C140	5300	$121.00	$127.05	$133.40	$140.07	$147.08
Compressive Strength of Composite Prism, 8"x8"x16"	ASTM C1314	5301	$165.00	$173.25	$181.91	$191.01	$200.56
Compressive Strength of Composite Prism, 8"x12"x16"	ASTM C1314	5302	$259.00	$271.95	$285.55	$299.82	$314.82
Compression Strength of Masonry Block (set of 3)	ASTM C140	5303	$266.00	$279.30	$293.27	$307.93	$323.32
Compressive Strength of Masonry Cores, 6"	ASTM C39	5304	$87.00	$91.35	$95.92	$100.71	$105.75
Grout Compressive Strength, 2"x2"x2" Cube	ASTM C109	5305	$55.00	$57.75	$60.64	$63.67	$66.85
Grout Compressive Strength, 3"x3"x6" Prism	UBC STD 21-18, ASTM C1019	5306	$72.00	$75.60	$79.38	$83.35	$87.52
Linear Shrinkage of Masonry Block (set of 3)	ASTM C426	5307	$318.00	$333.90	$350.60	$368.12	$386.53
Mortar Compressive Strength 2"x4", 3"x6" Cylinder	UBC STD 21-16, ASTM C780	5309	$121.00	$127.05	$133.40	$140.07	$147.08
Mortar Compressive Strength 2"x2"x2" Cube	UBC STD 21-16, ASTM C780	5310	$55.00	$57.75	$60.64	$63.67	$66.85
Shear Test of Masonry Cores, 6"	DSA	5311	$121.00	$127.05	$133.40	$140.07	$147.08
Unit Weight of Masonry Block (set of 3)	ASTM C140	5313	$121.00	$127.05	$133.40	$140.07	$147.08
Web and Face Shell Measurements	ASTM C140	5314	$75.00	$78.75	$82.69	$86.82	$91.16
Soils and Aggregate Tests							
Test	**Test Method**	**Invoice Code**	**Rate**				
			7/1/2024-6/30/2025	**7/1/2025-6/30/2026**	**7/1/2026-6/30/2027**	**7/1/2027-6/30/2028**	**7/1/2028-6/30/2029**
Abrasion: Los Angeles Rattler	ASTM C131, CTM 211, AASHTO T96	2000	$332.00	$348.60	$366.03	$384.33	$403.55
Abrasion: Los Angeles Rattler, Large-Size Coarse Agg.	ASTM C535, CT 211	2001	$367.00	$385.35	$404.62	$424.85	$446.09
Atterberg Limits/Plasticity Index	ASTM D4318, CTM 204, AASHTO T90	2002	$298.00	$312.90	$328.55	$344.97	$362.22
California Bearing Ratio Excluding Maximum Density (Multi-Point)	ASTM D1883, AASHTO T193	2003	$522.00	$548.10	$575.51	$604.28	$634.49
California Bearing Ratio Excluding Maximum Density (One Point)	ASTM D1883, AASHTO T193	2003.1	$250.00	$262.50	$275.63	$289.41	$303.88
California Bearing Ratio Excluding Maximum Density (Cement or Lime Treated)	ASTM D1883, AASHTO T193	2003.2	$650.00	$682.50	$716.63	$752.46	$790.08
Chloride and Sulfate Content	CTM 417, CTM 422	2004	$193.00	$202.65	$212.78	$223.42	$234.59
Clay Lumps and Friable Particles	ASTM C142	2005	$286.00	$300.30	$315.32	$331.08	$347.63
Cleanness Value: 1" x #4	CTM 227	2006	$261.00	$274.05	$287.75	$302.14	$317.25
Cleanness Value: 2.5" x 1.5" or 1.5" x .75"	CTM 227	2007	$523.00	$549.15	$576.61	$605.44	$635.71
Corrosivity Series: Sulfate, Cl, pH, Resistivity	CTM 643, 417, 422	2008	$382.00	$401.10	$421.16	$442.21	$464.32
Crushed/Fractured Particles	ASTM D5821, CTM 205, T335	2009	$254.00	$266.70	$280.04	$294.04	$308.74
Durability Index: Per Method – A, B, C, or D	ASTM D3744, CTM 229, AASHTO T210	2010	$321.00	$337.05	$353.90	$371.60	$390.18
Expansion Index	ASTM D4829	2011	$239.00	$250.95	$263.50	$276.67	$290.51
Flat Particle and Elongated Particle	ASTM D4791, CTM 235	2012	$260.00	$273.00	$286.65	$300.98	$316.03
Flat or Elongated Particle	ASTM D4791, CTM 235	2013	$267.00	$280.35	$294.37	$309.09	$324.54
Full Depth Reclamation (FDR) Mix Design	Project Specified	2014	By quote				
Material Finer than #200 Sieve by Washing	ASTM D1140, CTM 202, AASHTO T11	2015	$122.00	$128.10	$134.51	$141.23	$148.29
Moisture and Density: Ring Sample	ASTM D2937	2016	$63.00	$66.15	$69.46	$72.93	$76.58
Moisture and Density: Shelby Tube Sample	ASTM D2937	2017	$90.00	$94.50	$99.23	$104.19	$109.40

Organic Impurities	ASTM C40, CTM 213, AASHTO T21	2018	$128.00	$134.40	$141.12	$148.18	$155.58
Permeability of Granular Soil	ASTM D2434, CTM 220, AASHTO T215	2019	By quote				
R-Value: Soil	ASTM D2844, CTM 301, AASHTO T190	2020	$353.00	$370.65	$389.18	$408.64	$429.07
R-Value: Aggregate Base	ASTM D2844, CTM 301, AASHTO T190	2021	$491.00	$515.55	$541.33	$568.39	$596.81
Relative Compaction of Soils (California Method)	CTM 216	2022	$267.00	$280.35	$294.37	$309.09	$324.54
Sand Equivalent	ASTM D2419, CTM 217, AASHTO T176	2023	$168.00	$176.40	$185.22	$194.48	$204.21
				$0.00	$0.00	$0.00	$0.00
Sieve w/ Hydrometer: 3/4" Gravel to Clay	ASTM D422, CTM 203, AASHTO T88	2024	$300.00	$315.00	$330.75	$347.29	$364.65
Sieve w/ Hydrometer: Sand to Clay	ASTM D422, CTM 203, AASHTO T88	2025	$300.00	$315.00	$330.75	$347.29	$364.65
Sieve Analysis with Wash	ASTM C136, CTM 202, AASHTO T27	2026	$180.00	$189.00	$198.45	$208.37	$218.79
Sieve Analysis w/out Wash	ASTM C136, CTM 202, AASHTO T27	2027	$154.00	$161.70	$169.79	$178.27	$187.19
Split Sieve Analysis (coarse/fine aggregates)	ASTM C136, CTM 202, AASHTO T27	2028	$260.00	$273.00	$286.65	$300.98	$316.03
Sieve Analysis w/o Wash: W/ Cobbles	ASTM C136, CTM 202, AASHTO T27	2029	$285.00	$299.25	$314.21	$329.92	$346.42
Soil Cement Treated Mix Design	Project Specified	2030	By quote				
Soil Max. Density & Optimum Moisture: Standard Effort	ASTM D698, AASHTO T99	2031	$296.00	$310.80	$326.34	$342.66	$359.79
Soil Max. Density & Optimum Moisture: With Rock Correction	ASTM D698, D1557, D4718, AASHTO T99, T180	2032	$386.00	$405.30	$425.57	$446.84	$469.19
Soil Max. Density & Optimum Moisture Density: Check Point	ASTM D698, D1557, AASHTO T99, T180	2033	$134.00	$140.70	$147.74	$155.12	$162.88
Max. Density & Optimum Moisture: Modified Effort	D1557, AASHTO T99, T180	2034	$316.00	$331.80	$348.39	$365.81	$384.10
Soils and Aggregates: Moisture Content	ASTM D566, CTM 226, AASHTO T255	2035	$40.00	$42.00	$44.10	$46.31	$48.62
Soundness: Sodium or Magnesium Sulfate, 5 Cycles, Per Sieve Size	ASTM C88, CTM 214, AASHTO T104	2036	$174.00	$182.70	$191.84	$201.43	$211.50
Specific Gravity and Absorption: Coarse Aggregate	ASTM C127, CTM 206, AASHTO T85	2037	$141.00	$148.05	$155.45	$163.23	$171.39
Specific Gravity and Absorption: Fine Aggregate	ASTM C128, CTM 207, AASHTO T84	2038	$220.00	$231.00	$242.55	$254.68	$267.41
Specific Gravity of Soils	ASTM D854, CTM 209, AASHTO T100	2039	$138.00	$144.90	$152.15	$159.75	$167.74
Standard Specification for Concrete Aggregates (C33)	ASTM C33	2040	By quote				
Uncompacted Void Content - Fine Aggregate	ASTM C1252, CTM 234, AASHTO T304	2041	$201.00	$211.05	$221.60	$232.68	$244.32
Unconfined Compression of Soils	ASTM D2166, CTM 221, AASHTO T208	2042	$298.00	$312.90	$328.55	$344.97	$362.22
Unit Weight of Aggregates	ASTM C29, CTM 212, AASHTO T19	2043	$130.00	$136.50	$143.33	$150.49	$158.02
Voids in Aggregate	ASTM C29, CTM 212, AASHTO T19	2044	$130.00	$136.50	$143.33	$150.49	$158.02
Lightweight Particles, Fine Aggregate	ASTM C123, AASHTO T113	2045	$175.00	$183.75	$192.94	$202.58	$212.71

Lightweight Particles, Coarse Aggregate	ASTM C123, AASHTO T113	2046	$210.00	$220.50	$231.53	$243.10	$255.26
Lightweight Particles, Coarse Aggregate (Chert)	ASTM C123, AASHTO T113	2047	$210.00	$220.50	$231.53	$243.10	$255.26
Hot Mix Asphalt (HMA), Warm Mix Asphalt (WMA), Tests							
Test	**Test Method**	**Invoice Code**	**Rate**				
			7/1/2024-6/30/2025	**7/1/2025-6/30/2026**	**7/1/2026-6/30/2027**	**7/1/2027-6/30/2028**	**7/1/2028-6/30/2029**
SSD: Bulk Specific Gravity of Compacted HMA Sample or Core	ASTM D2726, CTM 308C, AASHTO T166	3000	$67.00	$70.35	$73.87	$77.56	$81.44
Coated: Bulk Specific Gravity Compacted HMA Sample or Core	ASTM D1188, CTM 308A, AASHTO T275	3001	$97.00	$101.85	$106.94	$112.29	$117.90
Draindown Characteristics in Uncompacted HMA	ASTM D6390, AASHTO T305	3002	$200.00	$210.00	$220.50	$231.53	$243.10
Lab Mixed-Effect of Moisture on HMA	ASTM D4867, AASHTO T283	3003	$1,568.00	$1,646.40	$1,728.72	$1,815.16	$1,905.91
Lab Mixed-Effect of Moisture on HMA, 1 Freeze Thaw	ASTM D4867, AASHTO T283	3004	$1,914.00	$2,009.70	$2,110.19	$2,215.69	$2,326.48
Plant Mixed-Effect of Moisture on HMA Mix	ASTM D4867, AASHTO T283	3005	$1,134.00	$1,190.70	$1,250.24	$1,312.75	$1,378.38
Plant Mixed-Effect of Moisture on HMA, 1 Freeze Thaw	ASTM D4867, AASHTO T283	3006	$1,568.00	$1,646.40	$1,728.72	$1,815.16	$1,905.91
Extraction: % Bitumen by Ignition	ASTM D6307, CTM 382, AASHTO T308	3007	$257.00	$269.85	$283.34	$297.51	$312.39
Extraction: % Bitumen by Ignition & Gradation	ASTM D6307/D5444, CTM 382/202, AASHTO T308/T27	3008	$355.00	$372.75	$391.39	$410.96	$431.50
Gyratory Compacted Bulk Sp. Gr. (set of 3)	ASTM D6925, AASHTO T312	3009	$350.00	$367.50	$385.88	$405.17	$425.43
Plant Mixed - Hamburg Wheel Track Test	AASHTO T234	3010	$1,439.00	$1,510.95	$1,586.50	$1,665.82	$1,749.11
Lab Mixed - Hamburg Wheel Track Test	AASHTO T234	3011	$2,440.00	$2,562.00	$2,690.10	$2,824.61	$2,965.84
HMA Ignition Oven Correction Factor	ASTM D6307, CTM 382, AASHTO T309	3012	$919.00	$964.95	$1,013.20	$1,063.86	$1,117.05
HMA Moisture Content	CTM 370, AASHTO T329	3013	$74.00	$77.70	$81.59	$85.66	$89.95
Hveem Mix Design	Project Specified	3014	By quote				
Hveem Compacted Bulk Sp, Gr. (set of 3): Paraffin	ASTM D1188, CTM 308A, AASHTO T275	3015	$248.00	$260.40	$273.42	$287.09	$301.45
Hveem Stabilometer Test - Lab Mixed (set of 3)	ASTM D1560/1561, CT 304/366, AASHTO T246/247	3016	$425.00	$446.25	$468.56	$491.99	$516.59
Hveem Stabilometer Test - Plant Mixed (set of 3)	ASTM D1560/1561, CT 304/366, AASHTO T246/247	3017	$260.00	$273.00	$286.65	$300.98	$316.03
Lab Mixed - Indirect Tensile Strength of HMA (IDT)	ASTM D6931	3018	$414.00	$434.70	$456.44	$479.26	$503.22
Plant Mixed - Indirect Tensile Strength of HMA (IDT)	ASTM D6931	3019	$280.00	$294.00	$308.70	$324.14	$340.34
Lab Mixed - High Temperature Indirect Tensile Strength of HMA (IDT-HT)	ASTM D6931	3038	$414.00	$434.70	$456.44	$479.26	$503.22
Plant Mixed - High Temperature Indirect Tensile Strength of HMA (IDT-HT)	ASTM D6931	3039	$280.00	$294.00	$308.70	$324.14	$340.34
4" Marshall Compacted Bulk. Sp. Gr. (set of 3)	ASTM D2726, CTM 308C, AASHTO T166	3020	$278.00	$291.90	$306.50	$321.82	$337.91
6" Marshall Compacted Bulk Sp. Gr. (set of 3)	ASTM D2726, CTM 308C, AASHTO T166	3021	$287.00	$301.35	$316.42	$332.24	$348.85
Marshall Mix Design	Project Specified	3022	By quote				

Max. Theoretical Specific Gravity [RICE]	ASTM D2041, CTM 309, AASHTO T209	3023	$191.00	$200.55	$210.58	$221.11	$232.16
Open Grade Mix Design	Project Specified	3024	By quote				
Quantitative Extraction: % Bit. & Sieve Analysis	ASTM D2172, AASHTO T164	3025	$375.00	$393.75	$413.44	$434.11	$455.81
RAP Quality Testing - Total of 3 Samples	CTM 384, MS-2	3026	$2,927.00	$3,073.35	$3,227.02	$3,388.37	$3,557.79
Lab Mixed - Resistance of Compacted HMA to Moisture Damage	CTM 371	3027	$2,290.00	$2,404.50	$2,524.73	$2,650.96	$2,783.51
Resistance to Plastic Flow - 4" Marshall of Cored Sample	ASTM D6926/6927, AASHTO R68/T245	3028	$184.00	$193.20	$202.86	$213.00	$223.65
Resistance to Plastic Flow - 4" Marshall Test, Plant Mix	ASTM D6926/6927, AASHTO R68/T245	3029	$280.00	$294.00	$308.70	$324.14	$340.34
Resistance to Plastic Flow - 4" Marshall Test Lab Mixed	ASTM D6926/6927, AASHTO R68/T245	3030	$414.00	$434.70	$456.44	$479.26	$503.22
Resistance to Plastic Flow - 6" Marshall Test Lab Mixed	ASTM D5581	3031	$541.00	$568.05	$596.45	$626.28	$657.59
Resistance to Plastic Flow - 6" Marshall Test, Premixed	ASTM D5581	3032	$432.00	$453.60	$476.28	$500.09	$525.10
Superpave Mix Design	Project Specified	3033	By quote				
Rutting Susceptibility of HMA using the APA Lab Mixed	AASHTO T340	3034	$2,291.00	$2,405.55	$2,525.83	$2,652.12	$2,784.72
Rutting Susceptibility of HMA using the APA - Plant Mixed	AASHTO T340	3035	$1,913.00	$2,008.65	$2,109.08	$2,214.54	$2,325.26
Lab Mixed - Rapid Shear Rutting Test (IDEAL-RT) - Set of 3	ASTM WK71466	3040	$1,500.00	$1,575.00	$1,653.75	$1,736.44	$1,823.26
Plant Mixed - Rapid Shear Rutting Test (IDEAL-RT) - Set of 3	ASTM WK71466	3041	$1,000.00	$1,050.00	$1,102.50	$1,157.63	$1,215.51
Lab Mixed - Indirect Tensile Cracking Test (IDEAL -CT) - Set of 3	ASTM 8225	3036	$1,500.00	$1,575.00	$1,653.75	$1,736.44	$1,823.26
Plant Mixed – Indirect Tensile Cracking Test (IDEAL -CT) - Set of 3	ASTM 8225	3037	$1,000.00	$1,050.00	$1,102.50	$1,157.63	$1,215.51
Emulsion Tests							
Test	**Test Method**	**Invoice Code**	**Rate**				
			7/1/2024-6/30/2025	**7/1/2025-6/30/2026**	**7/1/2026-6/30/2027**	**7/1/2027-6/30/2028**	**7/1/2028-6/30/2029**
Emulsion Residue, Evaporation	ASTM D244	3100	$151.00	$158.55	$166.48	$174.80	$183.54
Emulsion Sieve Test	ASTM D244	3101	$146.00	$153.30	$160.97	$169.01	$177.46
Furol Viscosity @ 77°F	ASTM D7496	3102	$153.00	$160.65	$168.68	$177.12	$185.97
Furol Viscosity @ 122°F	ASTM D7496	3103	$161.00	$169.05	$177.50	$186.38	$195.70
Penetration	ASTM D5	3104	$140.00	$147.00	$154.35	$162.07	$170.17
Residue by Evaporation	ASTM D6934	3105	$146.00	$153.30	$160.97	$169.01	$177.46
Sieve Test	ASTM D6933	3106	$114.00	$119.70	$125.69	$131.97	$138.57
Storage Stability, 1 Day	ASTM D6930	3107	$180.00	$189.00	$198.45	$208.37	$218.79
Storage Stability, 5 Day	ASTM D6930	3108	$207.00	$217.35	$228.22	$239.63	$251.61
Wet Track Abrasion	ASTM D3910	3109	$193.00	$202.65	$212.78	$223.42	$234.59
Binder Tests							
Test	**Test Method**	**Invoice Code**	**Rate**				
			7/1/2024-6/30/2025	**7/1/2025-6/30/2026**	**7/1/2026-6/30/2027**	**7/1/2027-6/30/2028**	**7/1/2028-6/30/2029**
Cone Penetration	ASTM D217	3200	$128.00	$134.40	$141.12	$148.18	$155.58
Haake Viscosity	LP-11	3201	$166.00	$174.30	$183.02	$192.17	$201.77
Resilience @ 77°F	ASTM D5329	3202	$128.00	$134.40	$141.12	$148.18	$155.58
Rubber Binder Profile	Project Specified	3203	$4,332.00	$4,548.60	$4,776.03	$5,014.83	$5,265.57
Softening Point	ASTM D36	3204	$140.00	$147.00	$154.35	$162.07	$170.17
PG Binder Specification Compliance	AASHTO M320	3205	$908.00	$953.40	$1,001.07	$1,051.12	$1,103.68
PG Grade Determination	AASHTO R29 / AASHTO M332	3206	$1,155.00	$1,212.75	$1,273.39	$1,337.06	$1,403.91

ZT Consulting Group Inc.
Inspection Staff Hourly Rate

Type of Service	Qualification	2024	2025	2026	2027	2028	2029
NDE Inspector	ASNT NDT UT/MT/PT	$ 179.06	$ 188.01	$ 197.41	$ 207.28	$ 217.65	$ 228.53
Coating Inspector	NACE II	$ 174.75	$ 183.49	$ 192.66	$ 202.29	$ 212.41	$ 223.03
Welding Inspector	CWI	$ 169.94	$ 178.44	$ 187.36	$ 196.73	$ 206.56	$ 216.89
Precats Concrete Inspector	ACI I, PCI II	$ 137.53	$ 144.41	$ 151.63	$ 159.21	$ 167.17	$ 175.53
Concrete Inspector	ACI I	$ 147.06	$ 154.41	$ 162.13	$ 170.24	$ 178.75	$ 187.69
Material Sampling/Technician	Material Sampler/Technician	$ 132.19	$ 138.80	$ 145.74	$ 153.03	$ 160.68	$ 168.71

Overtime rate applies after 8 hours on the job on the weekdays and any hours worked on Saturday, Sunday, and Holidays.
Rates Include all clerical, administrative, and support functions, along with required equipment and materials, along with travel cost within 150 miles of jobsite.

Travel Cost *,**

Item	Quantity	Approx. Unit Cost
Millage	TBD (Federal Rate)	$ 0.67 / mile
Travel in-State	TBD (Caltrans Policy)	Approx. $1,500 / Trip
Travel Out-of-State	TBD (Caltrans Policy)	Approx. $2,500 / Trip

** This approximate cost. All travel will be based on Caltrans Travel Policies, unless other policies are in place. Alternatively, an increase of $20 per hourly rate or $160/day can cover travel cost.*
*** Travel cost includes, airfare, lodging, transportation, and meal.*

ZT CONSULTING

ZT Consulting Group, Inc.
Material Testing Rate

2024

ZTC Work Instruction	Sample Type	Components	Tests	Test Method	Test Requirements Spec	Rate Cost	Unit
WI-720-001 (Fastener Procedure)	Anchor Bolt Assemblies	Anchor Bolts (ASTM F1554)	Ultimate Tensile Strength	ASTM F606 / ASTM A370 / ASTM E8	ASTM F1554	$ 150.00	Per Bolt
			Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Bolt
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Bolt
		Anchor Bolts (ASTM A449)	Ultimate Tensile Strength	ASTM F606 / ASTM A370 / ASTM E8	ASTM A449	$ 150.00	Per Bolt
			Hardness	ASTM F606 / ASTM E18	ASTM A449	$ 100.00	Per Bolt
			Coating Thickness (HDG)	ASTM F2329	ASTM F2329	$ 100.00	Per Bolt
			Coating Thickness (MG)	ASTM B695	ASTM B695	$ 100.00	Per Bolt
		Anchor Bolts (Machined 505 Specimen)	Ultimate Tensile Strength	ASTM F606 / ASTM A370 / ASTM E8	ASTM F1554	$ 350.00	Per Bolt
			Elongation	ASTM F606 / ASTM A370 / ASTM E8	ASTM F1554		
			Yield Strength	ASTM F606 / ASTM A370 / ASTM E8	ASTM F1554		
			Reduction Of Area	ASTM F606 / ASTM A370 / ASTM E8	ASTM F1554		
		Nuts (Grades O, A, B, C, D, DH, and DH3)	Proof Load	ASTM A370 / ASTM F606	ASTM A563	$ 150.00	Per Nut
			Hardness	ASTM F606 / ASTM E18	ASTM A563	$ 100.00	Per Nut
			Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Nut
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Nut
		Nuts (Grade 2H)	Proof Load	ASTM A370 / ASTM F606	ASTM A194	$ 150.00	Per Nut
			Hardness	ASTM F606 / ASTM E18	ASTM A194	$ 100.00	Per Nut
			Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Nut
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Nut
		Flat Washers (Hardened)	Hardness	ASTM F606 / ASTM E18	ASTM F436	$ 100.00	Per Washer
			Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Washer
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Washer
		Flat Washers (Non-Hardened)	Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Washer
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Washer
		DTI Washers	Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Washer
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Washer
WI-720-001 (Fastener Procedure)	High Strength Bolt Assemblies	High Strength Bolts (Minimum Tensile of 120 ksi)	Ultimate Tensile Strength *Shall be Wedge tensile tested (10 degree wedge up	ASTM F606 / ASTM A370 / ASTM E8	ASTM A325 / ASTM F3125 ASTM A449	$ 350.00	Per Bolt
			Hardness	ASTM F606 / ASTM E18	ASTM A325	$ 100.00	Per Bolt
			Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Bolt
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Bolt
		High Strength Bolts (Minimum Tensile of 150 ksi)	Ultimate Tensile Strength	ASTM F606 / ASTM A370 / ASTM E8	ASTM A325 / ASTM F3125 ASTM A449	$ 350.00	Per Bolt
			Hardness	ASTM F606 / ASTM E18	ASTM A325	$ 100.00	Per Bolt
			Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Bolt
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Bolt
		Nuts (Grades O, A, B, C, D, DH, and DH3)	Proof Load	ASTM A370 / ASTM F606	ASTM A563	$ 150.00	Per Nut
			Hardness	ASTM F606 / ASTM E18	ASTM A563	$ 100.00	Per Nut
			Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Nut
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Nut
		Nuts (Grade 2H)	Proof Load	ASTM A370 / ASTM F606	ASTM A194	$ 150.00	Per Nut
			Hardness	ASTM F606 / ASTM E18	ASTM A194	$ 100.00	Per Nut
			Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Nut
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Nut
		Flat Washers (Hardened)	Hardness	ASTM F606	ASTM F436	$ 150.00	Per Washer
			Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Washer
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Washer
		DTI Washers	Coating Thickness (HDG)	ASTM B499	ASTM F2329	$ 100.00	Per Washer
			Coating Thickness (MG)	ASTM B499	ASTM B695	$ 100.00	Per Washer

ZT CONSULTING

ZT Consulting Group, Inc.
Material Testing Rate

2024

ZTC Work Instruction	Sample Type	Components	Tests	Test Method	Test Requirements Spec	Rate Cost	Unit
WI-720-002 (Prestressing Strand Procedure)	Strands	Strands	Breaking Strength	ASTM A370 / ASTM A1061 / ASTM E8	ASTM A416	$ 200.00	Per Strand
			Yield Strength	ASTM A370 / ASTM A1061 / ASTM E8	ASTM A416		
			Elongation	ASTM A370 / ASTM A1061 / ASTM E8	ASTM A416		
WI-720-003 (Spliced Reinforcing Steel Procedure)	Welded Hoops	Ultimate Butt Splice Welded Hoop	Ultimate Tensile Strength	CTM 670 ASTM A370	ASTM A706	$ 80 (<#11) $ 160 (>#11)	Per Splice
			Visible Necking + Break outside HAZ		CTM 670		
			Strain				
WI-720-003 (Spliced Reinforcing Steel Procedure)	Couplers	Ultimate Butt Splice Couplers	Ultimate Tensile Strength	CTM 670 ASTM A370	ASTM A706	$ 80 (<#11) $ 160 (>#11)	Per Splice
			Visible Necking + Break outside HAZ		CTM 670		
			Strain				
			Slip		Caltrans Standard Specification Section 52-6.02B(1)	$ 150.00	Per Splice
		Service Splice Couplers	Ultimate Tensile Strength	CTM 670	ASTM A706	$ 60 (<#11) $ 120 (>#11)	Per Splice
			Slip	CTM 670	Caltrans Standard Specification Section 52-6.02B(1)	$ 150.00	Per Splice
WI-720-003 (Spliced Reinforcing Steel Procedure)	Headed Bars	Headed Bars	Ultimate Tensile Strength	CTM 670 ASTM A370	ASTM A706	$ 80 (<#11) $ 160 (>#11)	Per Headed Bar
			Visible Necking + Break outside HAZ		ASTM A970		
			Strain		CTM 670		
			Bend Test *Only required for welded headed bars (Sizes No. 3 to No. 10)			$ 80.00	Per Headed Bar
WI-720-004 (Cast Iron and Steel Check Sample	PT Anchorage Coupon	Casting Coupon	Ultimate Tensile Strength	ASTM A370 / ASTM E8	ASTM A536	$ 350.00	Per Coupon
			Yield Strength				
			Elongation				
WI-720-005 (Epoxy Coating Evaluation Procedure)	Epoxy Coated Bars	Epoxy Coated Bars (For Soil Nails)	Coating Thickness	ASTM A775 / CTM 687 ASTM A934 / CTM 687	Caltrans Spec Section 46-3.02A	$ 150.00	Per Bar
		Green Epoxy	Coating Thickness	ASTM A775 / CTM 687	ASTM A775	$ 250.00	Per Bar
			Holiday Test	ASTM A775 / CTM 686			
			Bend Test *Not required for dowel bars *Only Required for rebars	ASTM A775 / CTM 685			
		Dowel Bars	Coating Thickness	ASTM A884 / ASTM A775 / ASTM A934	ASTM A884	$ 150.00	Ber Par
		Purple Epoxy	Coating Thickness	ASTM A934 / CTM 687	ASTM A934	$ 250.00	Per Bar
			Holiday Test	ASTM A934 / CTM 686			
			Bend Test *Not required for dowel bars *Only Required for rebars	ASTM A934 / CTM 685			
WI-720-006 (Threaded Bar/Rebar Procedure)	Threaded Bar Assemblies (ASTM A722)	Threaded Bars	Ultimate Tensile Strength	ASTM A370 / ASTM E8	ASTM A722	$ 350.00	Per Bar
			Yield Strength				
			Elongation				
		Couplers	Proof Load			$ 350.00	Per Coupler
		Nuts	Proof Load			$ 150.00	Per Nut
WI-720-006 (Threaded Rebar Procedure)	DYWIDAG Threaded Bar	Threaded Bars	Ultimate Tensile Strength	ASTM A370 / ASTM E8	ASTM A722	$ 350.00	Per Bar
			Yield Strength				
			Elongation				
		Couplers	Proof Load			$ 350.00	Per Coupler
		Nuts	Proof Load			$ 150.00	Per Nut

ZT CONSULTING

ZT Consulting Group, Inc.
Material Testing Rate

2024

ZTC Work Instruction	Sample Type	Components	Tests	Test Method	Test Requirements Spec	Rate Cost	Unit
WI-720-007 (Reinforcing Steel Procedure)	Plain & Deformed Reinforcement (ASTM A615 & ASTM A706)	Rebar	Ultimate Tensile Strength	ASTM A615 / ASTM A706 / A370	ASTM A615	$ 200.00	Per Rebar
			Yield Strength				
			Elongation				
WI-720-008 (Compressive Testing of	Concrete Cylinders	Concrete Cylinders (4 x 8 & 6 x 12	Compressive Strength	ASTM C39	ASTM C39	$ 50.00	Per Cylinder
		Concrete Cores	Compressive Strength	ASTM C42	ASTM C42	$ 80.00	Per Core
WI-720-009 (Type B Seal)	Type B Seal	Joint Seals	Durometer Hardness	ASTM D2240	ASTM D2240	$ 1,500.00	Per Seal
			Tensile Strength	ASTM D412	ASTM D412		
			Elongation				
			Oil Swell By Mass	ASTM D471	ASTM D471		
			Low Temperature Recovery	ASTM D2628	ASTM D2628		
			High Temperature Recovery				
			Movement Rating	CTM 673	CTM 673		
WI-720-010 (Elastomer Bearing Pads)	Elastomeric Bearing Pads	Bearing Pads	Durometer Hardness	ASTM D2240	ASTM D2240	$ 1,100.00	Per Bearing
			Tensile Strength	ASTM D412	ASTM D412		
			Ultimate Elongation				
			Tear Strength (Die C)	ASTM D624	ASTM D624		
			Peel (Adhesion) Strength	CTM 663 Part 2	CTM 663 Part 2		

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Shannon & Wilson, Inc.)

INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of $1,000,000, with neither Consultant nor listed subconsultants having less than $500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

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INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG . $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
❒ COMMERCIAL GENERAL LIABILITY ❒ Claims Made
❒ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
❒ OWNERS & CONTRACTORS PROTECTIVE ❒ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
❒ GENERAL		
❒ PRODUCTS/COMPLETED OPERATIONS		
❒ PERSONAL & ADVERTISING INJURY		
❒ FIRE DAMAGE		
❒ _____		
❒ _____		

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____
Address: _____
_____
Telephone: (_____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)
Telephone: (____) _____ Date Signed: _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE
❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Shannon & Wilson, Inc.)

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard Consultant/Professional Services contracts that may be governed by the Living Wage Policy.

A. Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

D. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2024

Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. This hourly rate shall be adjusted on July 1, 2025, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

c. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Shannon & Wilson, Inc.)

PREVAILING WAGE

1. Consultant acknowledges that the Project defined in the Agreement between Consultant and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Consultant shall perform the Project as a public work. Consultant shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

3. Consultant is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).

4. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Consultant shall, as a penalty to City, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Consultant or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. Consultant shall comply with Labor Code Section 1776, which requires Consultant and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.

6. Consultant shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq.

concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Consultant may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Consultant must immediately notify City.

8. Consultant is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.

9. Consultant acknowledges that 8 hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810.

10. Consultant shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Consultant shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Consultant's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. Consultant shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations,

and Labor Code Sections 1860 and 3700. Consultant shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Consultant shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, Consultant shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Consultant, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Consultant under this Section shall survive Agreement termination.

EXHIBIT F

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Shannon & Wilson, Inc.)

IRAN CONTRACTING ACT CERTIFICATION
(TO BE EXECUTED AND SUBMITTED WITH THE AGREEMENT)
Public Contract Code Sections 2202-2208

Pursuant to Public Contract Code 2204.(a) A public entity shall require a person that is submits a bid or proposal to,or otherwise proposes to enter into or renew a contract with, a public entity with respect to a contract for goods or services of one million dollars ($1,000,000) or more to certify, at the time an Agreement is signed or renewed, that the person is not identified on a list created pursuant to subdivision (b) of Section 2203 as a person engaging in investment activities in Iran described in subdivision (a) of Section 2202.5 or as a person described in subdivision 9b) of Section 2202.5, as applicable.

To comply with this requirement, please insert your company/entity and Federal ID number (if available) and complete **one** of the options below. Please note, California law established penalties for providing false certifications, including civil penalties equal to the greater of $250,000 or twice the amount of the contract for which the false certification was made, contract termination and three-year ineligibility to bid on contract in accordance with Public Contract Code section 2205.

OPTION No.1 - CERTIFICATION

I, the official named below, certify I am duly authorized to execute this certification on behalf of the company/entityidentified below, and the company/entity identified below is not on the current list of persons engaged in investment activities in Iran created by DGS and is not a financial institution extending twenty million dollars ($20,000,000) or more in credit to another person or entity, for 45 days or more, if that other person or company/entity will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engagedin investment activities in Iran created by DGS in accordance with subdivision (b) of Public Contract Code 2203.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

OPTION No.2 - EXEMPTION

Pursuant to Public Contract Code sections 2203(c) and (d), a public entity may permit a vendor/financial institutionengaged in investment activities in Iran, on a case-by-case basis, to be eligible for, or to bid on, submit a proposal for, or enters into or renews, a contract for goods and services. If you have obtained an exemption from the certification requirement under the Iran Contracting Act, please fill out the information below and attach documentation demonstrating the exemption approval.

Company Name/Financial Institution (printed): _____ Federal ID Number (or n/a): _____

By (Authorized Signature): _____

Printed Name & Title of Person Signing: _____ Date Executed _____

Executed in the County of_____ in the State of _____

RATES AND COSTS EXHIBIT

Schedule of Fees and Services			
	Price per Hour	Prevailing Wage Rate	
PROFESSIONAL ENGINEERING STAFF			
Principal Engineer / Geologist	$180	$180	
Senior Engineer / Geologist	$160	$160	
Licensed Land Surveyor	$160	$160	
Project Engineer / Geologist	$140	$140	
Environmental Consultant / Registered Environmental Assessor	$120	$120	
Staff Engineer / Geologist	$110	$110	
One-Man Survey Crew & Equipment	$160	$180	
Two-Man Survey Crew & Equipment	$200	$220	
Three-Man Survey Crew & Equipment	$250	$330	
Survey Technician	$100	$100	
CAD Technician	$95	$95	
QSD/QSP Services	$125	$125	
INSPECTION SERVICES & QUALITY CONTROL			
Pile Driving Inspector / Deep Foundation Inspector	$95	$120	
Mechanical / Electrical / Plumbing Inspector	$100	$120	
Soil Technician	$85	$115	
Registered Special Inspector (Concrete, Masonry, Welding, Pre-Stress, Fireproofing)	$80	$110	
Field Technician I (ACI)	$75	$105	
Concrete Technician (ACI)	$75	$105	
Roofing / Waterproofing Inspector	$100	$120	
Roofing / Waterproofing Consultant	QUOTE	QUOTE	
Inspector of Record / DSA / OSHPD Inspector	QUOTE	QUOTE	
Quality Control Representative	QUOTE	QUOTE	
Submittal Reviewer	QUOTE	QUOTE	
QC Plan Preparation	QUOTE	QUOTE	
NON-DESTRUCTIVE TESTING SERVICES			
Non-Destructive Testing Inspector (Ultrasonic, magnetic particle, dye penetrate)	$85	$125	
Metallic Surface Coatings (Paint or Itumescescent Fireproofing)	QUOTE	QUOTE	
Radiographic (low power portable and laboratory available)	QUOTE	QUOTE	
SPECIAL SERVICES			
Vertical Coring / Sawing Operator & Equipment (Horizontal extra)	$140	$160	
Floor Flatness Testing	$110	$125	
Mobilization / Demobilization - flat rate	$150	$150	
Reinforcing Steel Location	$115	$125	
Anchor Pull Tests - up to 30 tons	$85	$115	
Batch Plant Inspector	$85	$105	
Procedure Qualification per AWS, ASME or Military Standards	QUOTE	QUOTE	
SUPPORT SERVICES			
Certificate of Completion	$250		
Draftsman	$100		
Express Mail (FEDEX/UPS) (minimum)	$50		
Facsimile (each page)	$1		
File Search, re-issue of report, copies (minimum)	$80		
Pickup/Delivery (50 mile radius of CTE office)	$60		
Administration/Certified Payroll/Word Processing/Secretarial (per hour)	$80		
Sample Pick-up	$60 / Trip		
Sample Pick-up (Large)	$85 / Trip		
COURT APPEARANCE AND DEPOSITIONS			
Principal Professional Preparation, Deposition or Testimony	$450		
Senior Professional Preparation, Deposition or Testimony	$350		
Travel & Expenses	Actual + 20%		
Evidence Storage (per month)	$150		

Schedule of Fees and Services

Testing Samples: A preparation charge will be added to all samples submitted to the laboratory that are not ready for testing. This preparation charge will be based on the actual time required and at the laboratory technician's rate of $75.00 per hour. There will be a 75% premium charge for "RUSH/PRIORITY" laboratory testing. This testing laboratory agrees to exercise reasonable care in obtaining, preserving, and caring, for the samples to be tested, but assumes no responsibility for damages, either direct or consequential, which arise or are alleged to arise from loss, damage or destruction of samples due to circumstances beyond this testing laboratory's control. Samples are discarded after testing unless requested otherwise in writing by the client. A per month fee is charged for retained samples.

Per Diem and Travel Expenses: Minimum $ 75.00 per day or Actual cost + 20%

Scheduling: A minimum of 24 hours notice is required to schedule personnel.

Overtime Rates: Our rates are based on a typical 8-hour work day generally between the hours of 6:30 AM & 4:30 PM M-F. A premium of 1.5 times the quoted rates for the first 4 hours and 2.0 times thereafter will be charged for work outside of these hours. However, Sundays will be billed at 2.0 times the quoted rate.

Minimum Charges: For inspection callout between 0 & 4 hours a minimum charge of 4 hours will be applied. For inspection callout between 4 & 8 hours, an 8-hour minimum charge will be applied. As an alternate, site time plus one hour, rounded to the next whole hour may be used. A 2 hour minimum or actual time expended will apply for unscheduled cancellations or showups. Portal-to-portal charges

The following are CTE Inc. holidays:

New Year's Day	Labor Day	Veterans' Day
Memorial Day	Thanksgiving Day	Presidents' Day
Independence Day	Christmas Day	MLK Day

Should a Holiday fall on a Saturday or Sunday the closest previous or following regular work day shall be considered the holiday.

Mileage: Mileage will be charged at $0.70 per mile for services outside a 40 mile radius of this office.

Outside Services/Subcontractors: Cost plus 20% will be charged for any work not directly performed by CTE Inc.or for any materials procured.

RATES AND COSTS EXHIBT

Earth Systems

1731 Walter Street, Suite A | Ventura, CA 93003 | Ph: 805.642.6727 | www.earthsystems.com

FEE SCHEDULE

Effective January 1, 2021

This schedule presents rates for professional and technical services in the fields of geotechnical engineering, engineering geology, environmental consulting, construction observation and testing, and special inspection. Listed are charges for services most frequently performed by Earth Systems. Additional services not listed are available and can be discussed upon request; fixed-fee quotes for some services can also be provided upon request. To discuss a scope of work and fees for a specific project, please contact our office.

HOURLY CHARGES FOR PERSONNEL

Word Processing and Reproduction	$70.00	Laboratory Technician	$100.00
Technician - Field/Lab (non PW)	$90.00	Drafter	$115.00
Group I for Prevailing Wage projects	$108.00	Staff Professional	$155.00
Special Inspector (non PW)	$98.00	Project Professional	$175.00
Group II for Prevailing Wage projects	$122.00	Senior Professional	$195.00
Special Inspector Group III	Per Quote	Associate Professional	$210.00
		Principal Professional	$220.00

BASIS OF CHARGES

1. Field technician services for non-prevailing wage projects on regular work days will be subject to a 2-hour minimum charge, and billed in 2-hour increments. Special inspection services and all prevailing wage project services will be subject to a 4-hour minimum charge, and billed in 4-hour increments. Hourly charges will accumulate on a portal-to portal basis. Work performed on weekends, holidays, and when work starts outside of regular business hours is subject to a 4-hour minimum charge. A 2-hour cancellation charge will apply if scheduled inspection or testing is cancelled after 3 p.m. the day prior to the scheduled work. Saturdays, night work, and premium hours (before 7 a.m., after 5 p.m. or in excess of 8 hours in one day) for personnel are at time and one-half; Sundays and holidays are at double time.
2. The prevailing wage rates presented above are based on current rates established by the Department of Industrial Relations (DIR). If, during the course of the project, prevailing wage rates are increased by DIR, the quoted rates will be adjusted to correspond to the change. Also, please note that requirements concerning overtime, shift work, travel time, holidays, and other factors can vary for different classifications of work under prevailing wage regulations.
3. Nuclear gauge charge: $12.50/hour.
4. Mileage zone charge (portal to portal): $20 within 10 miles, $40 within 20 miles, $60 within 30 miles, $80 within 40 miles, $100 within 50 miles. For more remote sites, a quote can be provided.
5. Subcontractors (except Special Inspectors) and other expenses will be charged at cost plus 20 percent.
6. Out of town travel and expenses will be charged at cost plus 20 percent. Fixed per diem rates for specific projects can be provided upon request.
7. Minimum report charge: $200.00.
8. Invoices are payable upon presentation. Invoices thirty days past due will be subject to a service charge of one and one-half percent per month.
9. Fees for depositions, hearings, or and court appearances (as Expert Witness) are listed on a supplemental fee schedule.
10. Due to State regulations requiring electronic submittal of Certified Payroll to DIR for prevailing wage projects, a fee of $75 per project will be assessed twice a month.
11. Payments using a credit card will be assigned a 3% convenience fee.
12. Rates presented herein will remain in effect through December 31, 2021. Hourly rates for professional and administrative staff will be subject to a 3 percent annual increase effective January 1 of the applicable year. Hourly rates for prevailing wage work will be subject to adjustment based upon changes in general prevailing wage determinations by the Department of Industrial Relations (DIR). For estimating purposes, an annual fee increase of 5 percent should be assumed for prevailing wage rates.

FEE SCHEDULE

(Effective January 1, 2021)

SUBCONTRACTED SERVICES

Subcontracted services are to be billed at cost plus 20%. Subcontracted services include, but are not limited to, consultants' fees, equipment rental (such as drilling, trenching and special access equipment), materials, freight, outside laboratory tests, aerial photographs, permit fees, and incidental expenses. Subcontracted services do not include subcontracted Special Inspectors, who will be billed at the rates shown on Page 1 of this Fee Schedule

SPECIAL FIELD SERVICES

Geophysical work, pile load tests, vane shear tests, piezometer installations, slope indicator installations, and other special tests can be quoted on an individual basis.

ENVIRONMENTAL SERVICES

Rates for environmental sampling, safety, and testing equipment can be provided on request. All rentals or purchases of required equipment and supplies, as well as subcontracted services, will be invoiced at cost plus 20%. Testing of contaminated soil will be per quote. Contaminated samples will be returned to sender for proper disposal.

SOILS LABORATORY FEES

Atterberg Limits/Plasticity Index (ASTM D 4318):	$250.00
California Bearing Ratio, 3 points (ASTM D 1883)	$750.00
California Impact (CT 216)	$250.00
Consolidation, one dimensional (ASTM D 2435)	$250.00
Consolidation, timed, per point	$85.00
Corrosivity Tests (EPA 300)	$200.00
Direct Shear, per point, 3 points minimum (ASTM D 3080)	$125.00
Expansion Index Test (ASTM D 4829)	$200.00
Hydrocollapse Potential Test (ASTM D 5333)	$125.00
Long Hydrometer Analysis, assumed specific gravity, with 200 wash (ASTM D 422, CT 203)	$300.00
Maximum Density and Optimum Moisture:	
4" Mold (ASTM D 1557)	$275.00
6" Mold (ASTM D 1557)	$325.00
Moisture and Unit Weight Determination, from ring samples (ASTM D 2937)	$40.00
Moisture Only (ASTM D 2216)	$30.00
Permeability Tests, constant head, falling head (EPA 9100)	Per Quote
R-Value (ASTM D 2844, CT 301)	$420.00
Sand Equivalent (ASTM D 2419, CT 217)	$140.00
Short Hydrometer, assumed specific gravity, with 200 wash (ASTM D 422)	$200.00
Sieve Analysis with 200 wash (ASTM D 1140, CT 202)	$200.00
Sieve Analysis without 200 wash, Aggregate Base or Sub-base	$140.00
Sieve Analysis of Oversize Material	Per Quote
Specific Gravity (ASTM D 854)	$155.00
Unconfined Compressive Strength, untreated (ASTM D 2166)	$155.00

FEE SCHEDULE

(Effective January 1, 2021)

MATERIALS LABORATORY TESTING FEES

An additional hourly charge ($100/hr.) will be applied for cutting, capping, or other preparation of non-standard samples.All compression test fees include formal report following 28-day tests. Formal reports for earlier tests will be subject to an additional report fee of $25.

AGGREGATE

Abrasion, L.A. Rattler, 100 & 500 revolutions (ASTM C 131, CT 211)	$210.00
Absorption, Coarse Aggregate (ASTM C 127, CT 206)	$100.00
Absorption, Fine Aggregate (ASTM C 128, CT 207)	$150.00
Clay Lumps and Friable Particles in Aggregate (ASTM C 142)	$110.00
Cleanness Value of Coarse Aggregate (CT 227)	$150.00
Crushed Particles, each size (CT 205)	$150.00
Durability Index, Coarse or Fine Aggregate (ASTM C 3744, CT 229)	$200.00
Flat and Elongated Particles in Aggregate (ASTM C 4791)	$110.00
Organic Impurities in Fine Aggregate (ASTM C 40, CT 213)	$100.00
Potential Reactivity of Aggregate by Chemical Method, each size (ASTM C 289)	Per Quote
Sieve Analysis, washed (ASTM C 117, CT 202)	$210.00
Soundness, Sodium Sulfate, 5 cycles (ASTM C 88)	$500.00
Specific Gravity, Coarse Aggregate (ASTM C 127)	$150.00
Specific Gravity, Fine Aggregate (ASTM C 128)	$150.00
Uncompacted Void Content, Fine Aggregate, incl. specific gravity (ASTM C 1252, AASHTO T304, CT 234)	$280.00
Unit Weight of Aggregate (ASTM C 29)	$150.00

CONCRETE CYLINDERS, BEAMS AND CORES

Compression Test of Cast Cylinders, includes disposal fee and report after 28 days (ASTM C 39)	$35.00
Compression Test of Cored Samples, does not include coring, but includes disposal fee (ASTM C 42)	$75.00
Grading of Shotcrete Cores, does not include coring (ACI 506.2)	$100.00
Compression Test of Lightweight Concrete (ASTM C 495)	$45.00
Density of Concrete Cylinders (ASTM C 138)	$75.00
Density of Hardened Concrete (ASTM C 642)	$105.00
Shrinkage of Beams, set of 3 (ASTM C 157)	$410.00
Flexural Strength, Simple Beam with Third Point Loading (ASTM C 78, CT 523)	$180.00
Unit Weight of Lightweight Concrete (ASTM C 567)	$130.00
Disposal/Recycling Fee, per shotcrete panel or beam	$5.00

MASONRY

Absorption of Block, set of 3 (ASTM C 140)	$165.00
Compression Test on Block, set of 3 (ASTM C 140)	$165.00
Compression Test on Grouted Prisms, includes cutting and disposal fee (ASTM C 1314).	$300.00
Compression Test on Masonry Cores (ASTM C 140)	$80.00
Compression Test, 2" x 4" Mortar Cylinders (ASTM C 780)	$45.00
Compression Test, 3" x 3" x 6" Grout Samples (ASTM C 1019)	$45.00
Moisture Content of Block as received, set of 3 (ASTM C 140)	$100.00
Shear Test on Masonry Cores, 2 faces	$175.00
Unit Weight of Block, set of 3 (ASTM C 140)	$165.00
Coring of Grouted Masonry by Subcontractor	cost + 20%
Disposal/Recycling Fee, per untested masonry prism	$2.00

FEE SCHEDULE

(Effective January 1, 2021)

ASPHALTIC CONCRETE

All fees for asphaltic concrete assume that asphalt mix is made in the field. Please request quotes if mix is to be made at our laboratory.

Bulk Specific Gravity of Core Samples (ASTM D 2726 and 1188, CT 308)	$50.00
California Kneading Compactor (Hveem LTMD) Max Density on set of 3 (CT 308)	$400.00
Extraction of Oil from AC Mixtures	$250.00
Extraction of Oil from Rubberized Mixtures (ASTM C 2172)	$315.00
Gyratory Compactor, field mixed asphalt (AASHTO 3112)	$400.00
Hamburg Wheel Tracker Test, per set of field mixed asphalt (AASHTO 324)	$750.00
Hazardous Waste Handling Charge for Extracted Oils	$30.00
Ignition Oven Binder Content Correction Value, per mix (ASTM D 6307)	$850.00
Ignition Oven Binder Content after initial correction value is determined	$170.00
Ignition Oven Gradation Correction Value, per mix	Per Quote
Ignition Oven Gradation after initial correction value is determined	$270.00
Sieve Analysis of Extracted Aggregate (ASTM C 5444)	$210.00
Specific Gravity, Theoretical Maximum, Rice Method (ASTM D 2041, CT 309)	$150.00
Stabilometer (Hveem S-Value), set of 3 (ASTM D 1560, CT 366)	$150.00*

* Fee assumes CT 308 is run concurrently

MISCELLANEOUS TESTING AND EQUIPMENT CHARGES

Anchor Pull Test Equipment.	$125/day
High Strength Bolt, Nut, Washer Testing	Per Quote
Manometer (Liquid Level) Survey Equipment	$125/day
Nuclear Gauge	$12.50/hr.
Pachometer (James R Meter)	$200/day
Pile Load Test Equipment	Per Quote
Reinforcing Steel Tensile and Bend Tests, No. 3 through No. 9 Bars (ASTM A 615)	$175.00
Reinforcing Steel Tensile and Bend Tests, No. 10 Bars and larger	Per Quote
Skidmore Device	$250/day
Torque Wrench	$50/day

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RATES AND COSTS EXHIBT

Leighton 60th Anniversary

PROFESSIONAL FEE SCHEDULE

LABOR RATES

CLASSIFICATION	$/HR
Technician I	81
Technician II / Special Inspector	90
Senior Technician / Senior Special Inspector	106
Prevailing Wage (field soils / materials tester) *	138
Prevailing Wage (Special Inspector) *	142
Prevailing Wage (Source Inspector, NDT and soil remediation O&M)*	145
System Operation & Maintenance (O&M) Specialist	135
Non Destructive Testing (NDT)	142
Deputy Inspector	106
Field / Laboratory Supervisor	135
Source Inspector	122
City of Los Angeles Deputy Building (including Grading) Inspector	144

* See Prevailing Wages in Terms and Conditions

CLASSIFICATION	$/HR
Project Administrator/Word Processor/Dispatcher	74
Information Specialist	99
CAD Operator	117
GIS Specialist	126
GIS Analyst	149
Staff Engineer / Geologist / Scientist	138
Senior Staff Engineer / Geologist / Scientist / ASMR	152
Operations / Laboratory Manager	167
Project Engineer / Geologist / Scientist	175
Senior Project Engineer / Geologist / Scientist / SMR	193
Associate	212
Principal	230
Senior Principal	266

GEOTECHNICAL LABORATORY TESTING

METHOD	$/TEST
CLASSIFICATION & INDEX PROPERTIES	
Photograph of sample	10
Moisture content (ASTM D2216)	20
Moisture & density (ASTM D2937) ring samples	30
Moisture & density (ASTM D2937) Shelby tube or cutting	40
Atterberg limits 3 points (ASTM D4318):	150
- Single point, non-plastic	85
- Atterberg limits (organic ASTM D2487 / D4318)	180
- Visual classification as non-plastic (ASTM D2488)	10
Particle size:	
- Sieve only 1½ inch to #200 (AASHTO T27/ASTM C136/ASTM D6913/CTM 202)	135
- Large sieve 6 inch to #200 (AASHTO T27/ASTM C136/ASTM D6913/CTM 202)	175
- Hydrometer only (ASTM D7928)	110
- Sieve + hydrometer ≤3 inch sieve, (ASTM 7928)	185
- Percent passing #200 sieve, wash only (ASTM D1140)	70
Specific gravity and absorption of fine aggregate (AASHTO T84/ASTM C128/ASTM D854/CTM 207)	130
Specific gravity and absorption of coarse aggregate (AASHTO T85/ASTM C127/CTM 206)	100
- Total porosity - on Shelby tube sample (calculated)	165
- Total porosity - on other sample (calculated)	155
Shrinkage limits wax method (ASTM D4943)	126
Pinhole dispersion (ASTM D4647)	210
Dispersive characteristics (double hydrometer ASTM D4221)	90
As-received moisture & density (chunk/carved samples)	60
Sand Equivalent (AASHTO T176/ASTM D2419/CTM 217)	105
SHEAR STRENGTH	
Pocket penetrometer	15
Direct shear (ASTM D3080, mod., 3 points):	
Consolidated undrained - 0.05 inch/min (CU)	285
Consolidated drained - <0.05 inch/min (CD)	345
Residual shear EM 1110-2-1906-IXA (price per each additional pass after shear)	50
Remolding or hand trimming of specimens (3 points)	90
Oriented or block hand trimming (per hour)	65
Single point shear	105
Torsional shear (ASTM D6467 / ASTM D7608)	820

METHOD	$/TEST
COMPACTION & PAVEMENT SUBGRADE TESTS	
Standard Proctor compaction, 4 points (ASTM D698)	
- 4 inch diameter mold (Methods A & B)	160
- 6 inch diameter mold (Method C)	215
Modified Proctor compaction 4 points (ASTM D1557):	
- 4 inch diameter mold Methods A & B	220
- 6 inch diameter mold Method C	245
Check point (per point)	65
Relative compaction of untreated/treated soils/aggregates (CTM 216)	250
Relative density 0.1 ft mold (ASTM D4253, D4254)	235
California Bearing Ratio (ASTM D1883)	
- 3 point	500
- 1 point	185
R-Value untreated soils/aggregates (AASHTO T190/ASTM D2844/CTM 301)	310
R-Value lime or cement treated soils/aggregates (AASHTO T190/ASTM D2844/CTM 301)	340
SOIL CHEMISTRY & CORROSIVITY	
pH Method A (ASTM D4972 or CTM 643)	45
Electrical resistivity – single point – as received moisture	45
Minimum resistivity 3 moisture content points (ASTM G187/CTM 643)	90
pH + minimum resistivity (CTM 643)	130
Sulfate content - gravimetric (CTM 417 B Part 2)	70
Sulfate content - by ion chromatograph (CTM 417 Part 2)	80
Sulfate screen (Hach®)	30
Chloride content (AASHTO T291/CTM 422)	70
Chloride content – by ion chromatograph (AASHTO T291/CTM 422)	80
Corrosion suite: minimum resistivity, sulfate, chloride, pH (CTM 643)	265
Organic matter content (ASTM D2974)	65
CONSOLIDATION & EXPANSION/SWELL TESTS	
Consolidation (ASTM D2435):	195
Each additional time curve	45
Each additional load/unload w/o time reading	40
Expansion Index (ASTM D4829)	130
Single load swell/collapse - Method B (ASTM D4546-B, seat, load & inundate only)	105
Swell collapse Method A up to 10 load/unloads w/o time curves (ASTM D4546-A)	290

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Leighton 60 Anniversary

FEE SCHEDULE

METHOD	$/TEST
TRIAXIAL TESTS	
Unconfined compression strength of cohesive soil (with stress/strain plot, ASTM D2166)	135
Unconsolidated undrained triaxial compression test on cohesive soils (UU, ASTM D2850, USACE Q test, per confining stress)	170
Consolidated undrained triaxial compression test for cohesive soils, (CU, ASTM D4767, USACE R-bar test) with back pressure saturation & pore water pressure measurement (per confining stress)	375
Consolidated drained triaxial compression test (CD, USACE S), with volume change measurement. Price per soil type below EM 1110-2-1906(X):	
Sand or silty sand soils (per confining stress)	375
Silt or clayey sand soils (per confining stress)	500
Clay soils (per confining stress)	705
Three-stage triaxial (sand or silty sand soils)	655
Three-stage triaxial (silt or clayey sand soils)	875
Three-stage triaxial (clay soils)	1,235
Remolding of test specimens	65

METHOD	$/TEST
HYDRAULIC CONDUCTIVITY TESTS	
Triaxial permeability in flexible-wall permeameter with backpressure saturation at one effective stress (EPA 9100/ASTM D5084, falling head Method C):	310
Each additional effective stress	120
Hand trimming of soil samples for horizontal K	60
Remolding of test specimens	65
Permeability of granular soils (ASTM D2434)	135
Soil suction (filter paper method, ASTM D5298)	400
SOIL-CEMENT	
Moisture-density curve for soil-cement mixtures (ASTM D558)	240
Wet-dry durability of soil-cement mixtures (ASTM D559) [1]	1,205
Compressive strength of molded soil-cement cylinder (ASTM D1633)[1]	60
Soil-cement remolded specimen (for shear strength, consolidation, etc.) [1]	235

[1] Compaction (ASTM D558 maximum density) should also be performed – not included in above price

CONSTRUCTION MATERIALS LABORATORY TESTING

METHOD	$/TEST
CONCRETE STRENGTH CHARACTERISTICS	
Concrete cylinders compression (ASTM C39) (6" x 12" and 4" x 8")	35
Compression, concrete or masonry cores (testing only) ≤6 inch (ASTM C42)	40
Trimming concrete cores (per core)	20
Flexural strength of concrete (simple beam-3rd pt. loading, ASTM C78/CTM 523)	85
Flexural strength of concrete (simple beam-center pt. loading, ASTM C293/CTM 523)	85
Non shrink grout cubes (2 inch, ASTM C109/C1107)	25
Drying shrinkage - four readings, up to 90 days, 3 bars (ASTM C157)	400
Length of concrete cores (CTM 531)	40
HOT MIX ASPHALT (HMA)	
Resistance of compacted HMA to moisture-induced damage (AASHTO T283/CTM 371)	2,100
Hamburg Wheel, 4 briquettes (modified) (AASHTO T324)	900
Superpave gyratory compaction (AASHTO T312/ASTM D6925)	350
Extraction by ignition oven, percent asphalt (AASHTO T308/ASTM D6307/CTM 382)	150
Ignition oven correction/correlation values (AASHTO T308/ASTM D6307/CTM 382)	1,350
Extraction by centrifuge, percent asphalt (ASTM D2172)	150
Gradation of extracted aggregate (AASHTO T30/ASTM D5444/CTM 202)	135
Stabilometer, S-Value (ASTM D1560/CTM 366)	265
Bituminous mixture preparation (AASHTO R30/CTM 304)	80
Moisture content of HMA (AASHTO T329/ASTM D6037/CTM 370)	60
Bulk specific gravity of compacted HMA, molded specimen or cores, uncoated (AASHTO T166/ASTM D2726/CTM 308)	50
Bulk specific gravity of compacted HMA, molded specimen or cores, paraffin-coated (AASHTO T275/ASTM D1188/CTM 308)	55
Maximum density - Hveem (CTM 308)	200
Theoretical maximum density and specific gravity of HMA (AASHTO T209/ ASTM D2041/CTM 309)	130
Thickness or height of compacted bituminous paving mixture specimens (ASTM D3549)	40
Wet track abrasion of slurry seal (ASTM D3910)	150
Rubberized asphalt (add to above rates)	+25%
BRICK	
Compression - cost for each, 5 required (ASTM C67)	50
Absorption - cost for each, 5 required (ASTM C67)	50

METHOD	$/TEST
AGGREGATE PROPERTIES	
Bulk density and voids in aggregates (AASHTO T19/ASTM C29/ CTM 212)	50
Organic impurities in fine aggregate sand (AASHTO T21/ASTM C40/CTM 213)	60
LA Rattler-smaller coarse aggregate <1.5" (AASHTO T96/ASTM C131/ CTM 211)	200
LA Rattler-larger coarse aggregate 1-3" (AASHTO T96/ASTM C535/CTM 211)	250
Apparent specific gravity of fine aggregate (AASHTO T84/ASTM C128/ CTM 208)	130
Specific gravity and absorption of coarse aggregate (ASTM C127/CTM 206) >#4 retained	100
Clay lumps, friable particles (AASHTO T112/ASTM C142)	175
Durability Index (AASHTO T210/ASTM D3744/CTM 229)	200
Moisture content of aggregates by oven drying (AASHTO T255/ASTM C566/CTM 226)	40
Uncompacted void content of fine aggregate (AASHTO T304/ ASTM C1252/ CTM 234)	130
Percent of crushed particles (AASHTO T335/ASTM D5821/CTM 205)	135
Flat & elongated particles in coarse aggregate (ASTM D4791/CTM 235)	215
Cleanness value of coarse aggregate (CTM 227)	210
Soundness, magnesium (AASHTO T104/ASTM C88/CTM 214)	225
Soundness, sodium (AASHTO T104/ASTM C88/CTM 214)	650
MASONRY	
Mortar cylinders 2" x 4" (ASTM C780)	30
Grout prisms 3" x 6" (ASTM C1019)	30
Masonry cores compression, ≤6" diameter - testing only (ASTM C42)	40
Masonry core-shear, Title 24 - test only	80
Veneer bond strength, cost for each - 5 required (ASTM C482)	55
CMU compression to size 8" x 8" x 16" - 3 required (ASTM C140)	55
CMU moisture content, absorption & unit weight - 6 required (ASTM C140)	50
CMU linear drying shrinkage (ASTM C426)	175
CMU grouted prisms compression test ≤8" x 8" x 16" (ASTM C1314)	200
CMU grouted prisms compression test > 8" x 8" x 16"(ASTM C1314)	250
BEARING PADS/PLATES AND JOINT SEAL	
Elastomeric bearing pads (Caltrans SS 51-3)	990
Elastomeric bearing pad with hardness and compression tests (Caltrans SS 51-3)	1,230
Type A Joint Seals (Caltrans SS 51-2)	1,620
Type B Joint Seals (Caltrans SS 51-2)	1,530
Bearing plates (A536)	720

Leighton 60th Anniversary

FEE SCHEDULE

METHOD	$/TEST
STREET LIGHTS/SIGNALS	
LED Luminaires / Signal Modules / Countdown Pedestrian Signal Face Modules (Caltrans RSS 86)	1,300
SPRAY APPLIED FIREPROOFING	
Unit weight (density, ASTM E605)	60
REINFORCING STEEL AND PRESTRESSING STRANDS	
Rebar tensile test, ≤ up to No. 11 (ASTM A370)	65
Rebar tensile test, ≥ No. 14 & over (ASTM A370)	200
Rebar bend test, up to No. 11 (ASTM A370)	65
Rebar bend test, ≥ No. 14 & over (ASTM A370)	200
Resistance butt-welded hoops/bars, tensile test, ≤ up to No. 10 (CTM 670)	65
Resistance butt-welded hoops/bars, tensile test, ≥ No. 11 & over (CTM 670)	85
Mechanical rebar splice, tensile test, ≤ up to No. 11 (CTM 670)	65
Mechanical rebar splice, slip test, ≤ up to No. 11 (CTM 670)	40
Mechanical rebar splice, tensile test, ≥ No. 14 & over (CTM 670)	200
Mechanical rebar splice, slip test, ≥ No. 14 & over (CTM 670)	200
Headed rebar splice, tensile test, ≤ up to No. 11 (CTM 670)	65
Headed rebar splice, tensile test, ≥ No. 14 & over (CTM 670)	200

METHOD	$/TEST
Epoxy coated rebar/dowel film thickness (coating) test (ASTM A775/A934)	45
Epoxy coated rebar/dowel continuity (Holiday) test (ASTM A775/A934)	65
Epoxy coated rebar flexibility/bend test, up to No. 11 (ASTM A775/A934)	45
Prestressing wire, tension (ASTM A416)	175
Sample preparation (cutting)	50
FASTENERS / BOLTS / RODS	
F3125 GR A307, A325 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370)	65
F3125 GR A307, A325 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370)	75
A490 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370)	65
A490 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370)	75
A593 Bolts, tensile test, ≤ up to 1-1/4" diameter, stainless steel (ASTM A370)	65
F1554 Bolts, tensile test, ≤ up to 1-1/4" diameter, plain (ASTM A370)	100
F1554 Bolts, tensile test, ≤ up to 1-1/4" diameter, galvanized (ASTM A370)	120
SAMPLE TRANSPORT	
Pick-up & delivery (weekdays, per trip, <50 mile radius from Leighton office)	90

EQUIPMENT LIST

ITEM	$UNIT	
1/4 inch Grab plates	5	each
1/4 inch Tubing (bonded)	0.55	foot
1/4 inch Tubing (single)	0.35	foot
3/8 inch Tubing, clear vinyl	0.55	foot
4-Gas meter (RKI Eagle or similar)/GEM 2000	130	day
Air flow meter and purge pump (200 cc/min)	50	day
Box of 24 soil drive-sample rings	120	box
Brass sample tubes	10	each
Caution tape (1000-foot roll)	20	each
Combination lock or padlock	11	each
Compressed air tank and regulator	50	day
Concrete coring machine (≤6-inch-dia)	150	day
Consumables (gloves, rope, soap, tape, etc.)	35	day
Core sample boxes	11	each
Crack monitor	25	each
Cutoff saws, reciprocating, electric (Sawzall®)	75	day
D-Meter Walking Floor Profiler	100	day
Disposable bailers	12	each
Disposable bladders	10	each
Dissolved oxygen meter	45	day
DOT 55-gallon containment drum with lid	65	drum
Double-ring infiltrometer	125	day
Dual-stage interface probe	80	day
Dynamic Cone Penetrometer	400	day
Generator, portable gasoline fueled, 3,500 watts	90	day
Global Positioning System/Laser Range Finder	80	day
Hand auger set	90	day
HDPE safety fence (≤100 feet)	40	roll
Horiba U-51 water quality meter	135	day
Light tower (towable vertical mast)	150	day
Magnehelic gauge	15	day
Manometer	25	day
Mileage (IRS Allowable)	0.56	mile

ITEM	$ UNIT	
Moisture test kit (excludes labor to perform test, ASTM E1907)	60	test
Nuclear moisture and density gauge	88	day
Pachometer	25	day
Particulate Monitor	125	day
pH/Conductivity/Temperature meter	55	day
Photo-Ionization Detector (PID)	120	day
Pump, Typhoon 2 or 4 stage	50	day
QED bladder pump w/QED control box	160	day
Quire fee – Phase I only	200	each
Resistivity field meter & pins	50	day
Slip / threaded cap, 2-inch or 4-inch diameter, PVC Schedule 40	15	each
Slope inclinometer	200	day
Soil sampling T-handle (Encore)	10	day
Soil sampling tripod	35	day
Stainless steel bailer	40	day
Submersible pump, 10 gpm, high powered Grundfos 2-inch with controller	160	day
Submersible pump/transfer pump, 10-25 gpm	50	day
Support service truck usage (well installation, etc.)	200	day
Survey/fence stakes	8	each
Tedlar® bags	18	each
Traffic cones (≤25)/barricades (single lane)	50	day
Turbidity meter	70	day
Tyvek® suit (each)	18	each
Vapor sampling box	55	day
Vehicle usage (carrying equipment)	20	hour
VelociCalc	35	day
Visqueen (20 x 100 feet)	100	roll
Water level indicator (electronic well sounder) <300 feet deep well	60	day
ZIPLEVEL®	15	day
Other specialized geotechnical and environmental testing & monitoring equipment are available, and priced per site		

TERMS AND CONDITIONS

- **Escalation of Rates:** Labor rates will increase by 4% annually, starting on January 1, 2023.
- **Proposal Expiration:** Proposals are valid for at least 30 days, subject to change after 30 days; unless otherwise stated in an attached proposal.
- **Prevailing Wages:** Our fees for prevailing wage work are based upon California prevailing wage laws and wage determinations. Unless specifically indicated in our proposal, costs for apprentice are not included. If we are required to have an apprentice on your project, additional fees will be charged.
- **Overtime:** Standard overtime rate is per California Labor Law and is billed at 1.5 or 2 times their hourly billing rate. Overtime rate for non-exempt field personnel working on a Leighton observed holiday is billed at 2 times their hourly billing rate. Overtime rate for Prevailing wage work is per the California Department of Industrial Relations (DIR) determination and is multiplied at 1.5 to 2 times their hourly billing rate for overtime and double-time, respectively.
- **Expert Witness Time:** Expert witness deposition and testimony will be charged at 2 times hourly rates listed on the previous pages, with a minimum charge of four hours per day.
- **Minimum Field Hourly Charges:** For Field Technicians, Special Inspectors or any on-site (field) materials testing services:

  4 hours: 4-hour minimum charge up to the first four hours of work

  8 hours: 8-hour minimum charge for over four hours of work, up to eight hours.

  Project time accrued includes portal to portal travel time.

- **Outside Direct Costs:** Heavy equipment, subcontractor fees and expenses, project-specific permits and/or licenses, project-specific supplemental insurance, travel, subsistence, project-specific parking charges, shipping, reproduction, and other reimbursable expenses will be invoiced at cost plus 20%, unless billed directly to and paid by client.
- **Invoicing:** Invoices are rendered monthly, payable upon receipt in United States dollars. A service charge of 1½-percent per month will be charged for late payment.
- **Client Disclosures:** Client agrees to provide all information in Client's possession about actual or possible presence of buried utilities and hazardous materials on the project site, prior to fieldwork, and agrees to reimburse Leighton for all costs related to unanticipated discovery of utilities and/or hazardous materials. Client is also responsible for providing safe and legal access to the project site for all Leighton field personnel.
- **Earth Material Samples:** Quoted testing unit rates are for soil and/or rock (earth) samples free of hazardous materials. Additional costs will accrue beyond these standard testing unit rates for handling, testing and/or disposing of soil and/or rock containing hazardous materials. Hazardous materials will be returned to the site or the site owner's designated representative at additional cost not included in listed unit rates. Standard turn-around time for geotechnical-laboratory test results is 10 working days. Samples will be stored for 2 months, after which they will be discarded. Prior documented notification is required if samples need to be stored for a longer time. A monthly storage fee of $10 per bag and $5 per sleeve or tube will be applied. Quoted unit rates are only for earth materials sampled in the United States. There may be additional cost for handling imported samples.
- **Construction Material Samples:** After all designated 28-day breaks for a given sample set meet specified compressive or other client-designated strength, all "hold" cylinders or specimens will be automatically disposed of, unless specified in writing prior to the 28-day break. All other construction materials will be disposed of after completion of testing and reporting.

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RATES AND COSTS EXHIBIT

RATE SCHEDULE

Personnel Rates: Per Hour Unless Otherwise Noted

Task Code	Engineering and Consulting Personnel	Rate
10026	Senior Principal Advisor/Consultant	$ 310.00
10001	Principal Engineer/Geologist	$ 210.00
10017	Metallurgical Engineer	$ 320.00
70000	Registered Geotechnical Engineer	$ 200.00
10010	Technical Advisor	$ 200.00
10011	Material Scientist, Welding/NDT Consultant	$ 210.00
70003	Registered Geologist/Certified Engineering Geologist	$ 195.00
10003	Senior Engineer/Geologist	$ 180.00
10009	Registered Civil Engineer	$ 175.00
60003	Roofing/Waterproofing Consultant	$ 200.00
10013	Project Engineer/Manager	$ 160.00
30000	Quality Control Manager	$ 160.00
10006	Senior Staff Engineer/Geologist	$ 155.00
10007	Staff Engineer/Geologist	$ 150.00
10015	Quality Control Administrator	$ 140.00
10019	Metallurgical Technician	$ 115.00
50001	CADD Operator/Draftsperson	$ 102.00
70107	Field Supervisor	$ 135.00
91030	Safety Supervisor	$ 135.00
20000	Laboratory Manager	$ 120.00
98000	Laboratory Technician	$ 95.00
90005	Expert Witness Testimony	$ 550.00
91010	Qualified SWPPP Developer	$ 155.00
91000	Qualified SWPPP Practitioner	$ 140.00
30001	Vibration Engineer	$ 180.00

NOTE Hourly rate multiplier for participating in legal procedures is 1.75 times.

Task Code	Field Inspection Personnel	Rate
10101	Concrete/Reinforced Steel Inspector	$ 110.00
10103	Prestressed/Post Tensioned Inspector	$ 110.00
10105	Concrete ICC Inspector	$ 110.00
10109	Drilled-In-Anchor Inspector	$ 110.00
10111	Gunite/Shotcrete Inspector	$ 110.00
10113	Masonry Inspector	$ 110.00
10201	Structural Steel/Welding Inspector	$ 110.00
10203	AWS Certified Welding Inspector	$ 110.00
10207	Fireproofing Inspector	$ 110.00
10501	Lead Inspector	$ 121.00
10115	Firestop Special Inspector - IFC Premier	$ 135.00
10117	Firestop Special Inspector - IQP	$ 160.00
70109	L.A. Deputy Grading Inspector	$ 125.00
75001	Asphalt Field and Plant Inspector/Technician	$ 110.00
70103	Pile Driving Inspector	$ 118.00
70101	Soils Technician	$ 100.00
10107	Concrete Quality Control (ACI/Caltrans Technician)	$ 118.00
10122	Wood Framing Inspector	$ 118.00
60001	Roofing/Waterproofing Inspector	$ 125.00
10515	Mechanical Inspector	$ 150.00
10519	Electrical Inspector	$ 150.00
10521	Plumbing Inspector	$ 150.00
10523	Building Inspector	$ 150.00
30002	Vibration Monitoring Technician	$ 118.00
50003	Field Engineering Technician	$ 123.00

NOTE Hourly rate multiplier for participating in legal procedures is 1.75 times.

Task Code	Shop Inspection Personnel	Rate
10301	Structural Steel Fabrication Inspector	$ 118.00
10309	Batch Plant Quality Control Technician/Inspector	$ 118.00
10325	Glue-Laminated Fabrication Inspector	Quotation
10328	Pre-Cast Concrete/Pipe Fabrication Inspector	$ 118.00

Task Code	Nondestructive Testing Personnel	Rate
10401	NDE Ultrasonic Testing Technician	$ 123.00
10403	NDE Magnetic Particle Testing Technician	$ 123.00
10405	NDE Dye Penetrant Testing Technician	$ 123.00
10305	Combination NDE Technician/Welding Inspector	$ 123.00
10409	Radiographic Testing (crew of 2)	$ 325.00
10020	NDE Engineer	$ 190.00

Task Code	Equipment Usage (Daily Unless Otherwise Noted)	Rate
95318	Skidmore	$ 40.00
95309	Torque Wrench, Small	$ 15.00
95312	Torque Wrench, Large	$ 25.00
95315	Torque Multiplier	$ 40.00
95321	Air Meter	$ 20.00
95324	Brass Mold	$ 20.00
95343	Nuclear Gauge (Per Hour)	$ 10.00
95333	Pull Test Equipment	$ 60.00
95348	Concrete/Asphalt Coring Equipment	$ 600.00
95327	Pachometer	$ 55.00
95336	Floor Flatness (Dipstick)	$ 50.00
95330	Schmidt Hammer	$ 30.00
95341	Vapor Emission Test Kits	$ 30.00
95342	Relative Humidity Probe	$ 60.00
95339	UPV (Ultrasonic Pulse Velocity) Meter	$ 350.00
95351	Fireproofing Adhesion/Cohesion (Per Test)	$ 35.00
95300	A Scan Ultrasonic Equipment and Consumables	$ 75.00
95303	Magnetic Particle Equipment and Consumables	$ 40.00
95306	Liquid Penetrant Consumables	$ 35.00
95307	Phased Array Ultrasonic Equipment (Per Hour)	$ 60.00
95347	Ground Penetrating Radar	$ 300.00
95345	Impact Echo	$ 350.00
95362	Ultrasonic Tomography	$ 450.00
95349	Inertial Profiler (Per Hour)	Quotation
95357	Project Dedicated Vehicle	$ 110.00
95364	Roller Compacted Concrete Vibrating Hammer/Tamping Plate	$ 70.00
95367	Half-cell Potential Equipment Set	$ 350.00
95368	Concrete Electrical Resistivity Meter	$ 160.00
95369	Field Hardness (Steel)	$ 100.00
95370	Coating Thickness Gauge	$ 100.00
95373	Wood Curing Box (Per Box)	$ 500.00
95371	Temperature Control Curing Box (Per Month)	$ 450.00
95372	Temperature Matching Curing Box (Per Month)	$ 520.00

Task Code	Specimen Pick-Up	Rate
20102	Standard Sample: Concrete Cylinders (Each)	$ 25.00
20101	Standard Sample: Mortar/Grout Cubes and Cores, Fireproofing, Rebar, and Epoxy Prisms (Each)	$ 25.00
20103/ 20104	Oversize Sample: Masonry Prisms, Shotcrete Panels, Flexural Beams (Each)	$ 60.00
20107	Technician for Specimen Pick-Up Not Listed Above (Per Hour, 2-Hour Minimum)	$ 95.00
20109	Technician for Specimen Pick-Up Before 5:00 a.m. or After 5:00 p.m. Monday thru Friday, or All Day Saturday (Per Hour, 2-Hour Minimum Plus Mileage)	$ 120.00

Task Code	Jobsite Trailer, Mobile or On-site Laboratory	Rate
95380	Mobile laboratory for rapid strength concrete (per shift not exceeding 12 hours) All others by quotation	$ 500.00

Task Code	Concrete Tests (Field Made Specimens)	Rate
20201	6" x 12" Cylinder: Compression Strength (ASTM C39)	$ 25.00
20202	4" x 8" Cylinder: Compression Strength (ASTM C39)	$ 25.00
20203	Density of Structural Lightweight Concrete Equilibrium or Oven Dry Method (ASTM C567)	$ 80.00
20205	Core Compression Including Trimming (ASTM C42)	$ 65.00
20207	6" x 6" x 18" Flexural Beams Not Exceeding Referenced Size (ASTM C78, C293 or CTM 523)	$ 90.00
20209	Splitting Tensile Strength (ASTM C496)	$ 90.00
20211	Modulus of Elasticity Test (ASTM C469)	$ 260.00
80003	Rapid Chloride Permeability Test: Cylinders or Cores (ASTM C1202)	$ 500.00
80006	Density, Absorption, and Voids in Hardened Concrete (ASTM C642)	$ 500.00

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Task Code	Concrete Tests (Field Made Specimens), Continued	Rate
40005	Flexural Toughness (ASTM C1609, Formerly ASTM C1018)	$ 800.00
40006	Double Punch Strength of Fiber Reinforced Concrete	$ 500.00
40009	Coefficient of Thermal Expansion of Concrete (CRD 39, AASHTO T336)	$ 550.00

Task Code	Concrete Specimen Preparation	Rate
20151	Sawing of Specimens (Each)	$ 35.00
20157	Coring of Specimens in Lab (Each)	$ 35.00
20159	Grinding of Concrete Below 6000 psi Strength (Each)	$ 50.00
20160	Grinding of Concrete 6000 psi Strength and Above (Each)	$ 75.00

Task Code	Laboratory Trial Batch: Concrete, Cement and Mortar	Rate
30217	Compression Test Cylinders Made and Tested in Laboratory (ASTM C192, C39)	$ 55.00
30219	6" x 6" x 18" Flexural Beams Made and Tested in Laboratory (ASTM C192, C78)	$ 95.00
30223	Splitting Tensile Strength Cylinders Made and Tested in Laboratory (ASTM C192, C496)	$ 110.00
30225	Modulus of Elasticity Test Cylinders Made and Tested in Laboratory (ASTM C192, C469)	$ 275.00
30227	Density of Structural Lightweight Concrete Made in the Laboratory, Equilibrium or Oven Dry Method (ASTM C567)	$ 100.00
30201	Laboratory Trial Batch (ASTM C192)	$ 500.00
30203	Laboratory Trial Batch: Packaged Dry Concrete Including Verification of Slump, Air Content, Plastic Unit Weight, Six Cylinders for Compressive Strength (ASTM C387 and C192)	$ 950.00
30205	Drying Shrinkage Up to 28 Days: Three 3" x 3" or 4" x 4" Bars, Five Readings up to 28 Dry Days (ASTM C157)	$ 490.00
30230	Additional Reading, Per Set of Three Bars	$ 45.00
30231	Storage over Ninety (90) Days, Per Set of Three Bars, Per Month	$ 30.00
30207	Setting Time Up to 7 Hours (ASTM C403)	$ 150.00
30209	Bleeding (ASTM C232)	$ 150.00
30229	Concrete Restrained Expansion (ASTM C878)	$ 550.00
30211	Mix, Make and Test Mortar or Grout Specimens for Compressive Strength: Set of 6 (ASTM C878)	$ 500.00
20283	Non-Shrink Grout: Height Change after Final Set (ASTM C1090)	$ 500.00
20285	Non-Shrink Grout: Height Change at Early Age (ASTM C827)	$ 800.00
30232	Cracking Resistance, Set of Three Rings, Laboratory Trial Batching, Test Until Cracking or up to 28 Days (ASTM 1581)	$ 5,000.00
30233	Evaluation of Pre-Packaged Masonry Mortars (ASTM C270)	$ 1,100.00
30234	Creep (ASTM C512) (One Age of Loading, 12 Months Duration of Testing)	$ 8,000.00

Task Code	Chemical Analysis and Petrographic Examination of Concrete	Rate
80123	Chemical Analysis for Acid Soluble Chlorides (ASTM C1152) (includes sample prep)	$ 250.00
80193	Chloride Diffusion Coefficient of Cementitious Mixtures by Bulk Diffusion (ASTM C1556)	$ 2,500.00
80129	Petrographic Examination of Hardened Concrete, Level II (ASTM 856) (Comprehensive)	
	Each, One Sample	$ 2,400.00
	Each, Two or More Samples	$ 2,100.00

Task Code	Physical and Chemical Analysis of Cement	Rate
80185	Physical Testing and Chemical Analysis of Portland Cement per Standard Requirements (ASTM C150)	$ 1,200.00
80100	Chemical Analysis of Portland Cement per Standard Requirements (ASTM C150)	$ 650.00
80103	Physical Testing of Portland Cement per Standard Requirements (ASTM C150)	$ 650.00
80194	Physical Testing of Type K Cement, Mortar Expansion (ASTM C806)	$ 650.00
80106	Partial Analysis or Specific Physical Tests	Quotation
80110	Sulfates Resistance of Hydraulic Cement (ASTM C1012), 6 months	$ 2,500.00
80111	Sulfates Resistance of Hydraulic Cement (ASTM C1012), 12 months	$ 2,700.00

Task Code	Physical and Chemical Analysis of Fly Ash	Rate
80140	Chemical Analysis of Fly Ash per Standard Requirements (ASTM C618)	$ 650.00
80143	Physical Testing of Fly Ash per Standard Requirements (ASTM C618)	$ 650.00
80146	Partial Analysis or Specific Physical Tests	Quotation
80147	Chemical Analysis and Physical Testing of Fly Ash per Standard Requirements (ASTM C1618)	$ 1,200.00

Task Code	Physical Testing of Chemical Admixtures for Concrete	Rate
80196	Qualification of Admixture per ASTM C494	Quotation

Task Code	Soils and Aggregate Tests	Rate
30503	Abrasion: LA Rattler (ASTM C131)	$ 200.00
30505	Abrasion: LA Rattler (ASTM C535)	$ 210.00
70301	Atterberg Limits/Plasticity Index (ASTM D4318, CTM 204)	$ 160.00
70303	California Bearing Ratio Excluding Maximum Density (ASTM D1883): Soil	$ 550.00
70304	California Bearing Ratio Excluding Maximum Density (ASTM D1883): Cement-Treated Soil	$ 650.00
70344	Cement-Treated Soil/Base Mix Design: includes three trial cement contents with three unconfined compressive strength specimens per cement content	$ 3,500.00
70305	Chloride and Sulfate Content (CTM 417, CTM 422)	$ 175.00
30403	Clay Lumps and Friable Particles (ASTM C142)	$ 200.00
30321	Clearness Value: 1" x #4 (CTM 227)	$ 175.00
30322	Clearness Value: 1.5" x .75" (CTM 227)	$ 275.00
70393	Collapse Potential/Index (ASTM D5333)	$ 225.00
70396	Compressive Strength of Molded Soil-Cement Cylinders (ASTM D1633)	$ 105.00
70309	Consolidation Test: Full Cycle (ASTM 2435, CTM 219)	$ 195.00
70311	Consolidation Test: Time Rate per Load Increment (ASTM D2435, CTM 219)	$ 45.00
70313	Corrosivity Series: Sulfate, Cl, pH, Resistivity (CTM 643, 417, and 422)	$ 245.00
70315	Crushed/Fractured Particles (ASTM D5821, CTM 205)	$ 175.00
70317	Direct Shear Test: Remolded and/or Residual (ASTM D3080)	$ 245.00
70319	Direct Shear Test: Undisturbed - Slow [CD] (ASTM D3080)	$ 225.00
70321	Direct Shear Test: Undisturbed - Fast [CU] (ASTM D3080)	$ 195.00
70378	Durability Index: Per Method - A,B,C, or D (ASTM D3744, CTM 229)	$ 210.00
70325	Expansion Index (ASTM D4829, UBC 18-2)	$ 170.00
75004	Fine Aggregate Angularity (ASTM C1252, CTM 234, AASHTO T304)	$ 190.00
30507	Flat and Elongated Particle (ASTM D4791)	$ 240.00
30508	Flat or Elongated Particle (ASTM D4791)	$ 210.00
70331	Maximum Density: Methods A/B/C (ASTM D1557, D698, CTM 216)	$ 210.00
70333	Maximum Density: Check Point (ASTM D1557, D698)	$ 65.00
70335	Maximum Density: AASHTO C [Modified] (AASHTO T-180)	$ 195.00
70336	Maximum Index Density: Vibratory Table (ASTM D4253)	$ 345.00
70337	Moisture Content (ASTM D2216, CTM 226)	$ 25.00
70339	Moisture and Density: Ring Sample (ASTM D2937)	$ 30.00
70341	Moisture and Density: Shelby Tube Sample (ASTM D2937)	$ 40.00
70340	Moisture-Density Relations of Soil-Cement Mixtures Premixed in the Field (ASTM D558)	$ 275.00
70342	Moisture-Density Relations of Soil-Cement Mixtures Mixed in the Lab (ASTM D558)	$ 350.00
30401	Organic Impurities (ASTM C40, CTM 213)	$ 90.00
70343	Permeability (ASTM D5084)	Quotation
80001	Potential Reactivity: Chemical Method (ASTM C289 - Discontinued Method)	$ 525.00
70394	Potential Reactivity: Mortar Bar Expansion Method, 14-Day Exposure (ASTM C1260)	$ 825.00
70391	Potential Reactivity: Mortar Bar Expansion Method, 28-Day Exposure (ASTM C1260)	$ 875.00
70398	Potential Reactivity: Concrete Bar Expansion Method (ASTM C1293), 12 month	$ 2,700.00
70399	Potential Reactivity: Concrete Bar Expansion Method (ASTM C1293), 24 month	$ 2,900.00

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70347	R-Value: Aggregate Base (ASTM D2844, CTM 301)	$ 490.00
70349	Sand Equivalent (ASTM D2419, CTM 217)	$ 125.00
70351	Sieve #200 Wash Only (ASTM D1140, CTM 202)	$ 90.00
70353	Sieve with Hydrometer: 3/4" Gravel to Clay (ASTM D422, D7928, CTM 203)	$ 250.00
70355	Sieve with Hydrometer: Sand to Clay (ASTM D422, D7928, CTM 203)	$ 240.00
70357	Sieve Analysis Including Wash (ASTM C136, CTM 202)	$ 110.00
70359	Sieve Analysis Without Wash (ASTM C136, CTM 202)	$ 120.00
70360	Sieve Analysis: Split Sieve (ASTM C136, CTM 202)	$ 240.00
70361	Sieve Analysis Without Wash: With Cobbles (ASTM C136, CTM 202)	$ 235.00
70363	Soundness: Sodium or Magnesium Sulfate, 5 Cycles (ASTM C88)	$ 450.00
70365	Specific Gravity and Absorption: Coarse (ASTM C127, CTM 206)	$ 100.00
70367	Specific Gravity and Absorption: Fine (ASTM C128, CTM 207)	$ 165.00
70369	Swell/Settlement Potential: One Dimensional (ASTM D4546)	$ 150.00
70371	Triaxial	Quotation
70373	Unconfined Compression (ASTM D2166, CTM 221)	$ 190.00
30317	Unit Weight Per Cubic Foot (ASTM C29, CTM 212)	$ 125.00
30319	Voids in Aggregate with Known Specific Gravity (ASTM C29, CTM 212)	$ 125.00
30411	Lightweight Particles: Coarse, with Two Solutions (ASTM C123)	$ 410.00
30412	Lightweight Particles: Fine, with One Solution (ASTM C123)	$ 205.00

Task Code	Asphalt Concrete Tests	Rate
75031	HMA Mixing and Preparation	$ 125.00
75032	HMA Mixing and Preparation with Aggregate Treatment	$ 175.00
75033	Bulk Specific Gravity of Compacted Sample or Core: SSD (ASTM D2726, CTM 308C)	$ 55.00
75036	Bulk Specific Gravity of Compacted Sample or Core: Paraffin Coated (ASTM D1188 and CTM 308A)	$ 80.00
75040	Emulsion Residue, Evaporation (ASTM D244)	$ 160.00
75024	Extraction: % Bitumen (ASTM D6307, CTM 382)	$ 160.00
75027	Extraction: % Bitumen and Gradation (ASTM D5444, D6307, CTM 202, 382)	$ 215.00
75028	Extraction: % Bitumen, Correction Factor (ASTM D6307, CTM 382)	$ 350.00
75030	Chemical Extraction: % Bitumen and Sieve Analysis (ASTM D2172 Method A or B, ASTM D5444)	$ 245.00
75042	Lab Tested Maximum Density: Hveem, 3 briquettes (ASTM D1561, D1188, CTM 304, 308)	$ 215.00
75057	Hveem Stabilometer Test, Premixed, 3 briquettes (ASTM D1560, D1561, CTM 304, 366)	$ 215.00
75048	Lab Tested Maximum Density: Marshall, 3 briquettes (ASTM D6926, D2726)	$ 210.00
75049	Lab Tested Maximum Density: Marshall 6" Specimen, 3 briquettes (ASTM D5581, D2726)	$ 215.00
75050	Lab Tested Maximum Density: Superpave Gyratory Compacted Briquette, SSD, 1 briquette (ASTM D6925, D2726)	$ 80.00
75052	Lab Tested Maximum Density: Superpave Gyratory Compacted Briquette, Paraffin, 1 briquette (ASTM D1188, D6925)	$ 90.00
75061	Maximum Theoretical Specific Gravity (RICE) (ASTM D2041, CTM 309)	$ 160.00
75066	Marshall Stability and Flow, Cored Sample, each (ASTM D6927)	$ 80.00
75089	Marshall Stability and Flow, Premixed, 3 briquettes (ASTM D6926, D6927)	$ 230.00
75106	Marshall Stability and Flow, Gyratory Compacted Specimen Pre-Mixed, 3 briquettes (ASTM D5581, D6925)	$ 230.00
75107	Marshall Stability and Flow 6" Specimen, Premixed, 3 briquettes (ASTM D5581)	$ 230.00
75063	Moisture Content (CTM 370)	$ 85.00
	Quality Tests)	
75094	Hveem Mix Design Caltrans Untreated Mix (Including Aggregate Quality Tests)	$ 4,650.00
75095	Hveem Mix Design Caltrans Lime Treated Mix (Including Aggregate Quality Tests)	$ 4,650.00
75084	Marshall Mix Design (Excluding Aggregate Quality Tests)	$ 3,400.00
75087	Marshall Mix Design with RAP (Excluding Aggregate Quality Tests)	$ 3,800.00
75090	Marshall Mix Design with Lime (Excluding Aggregate Quality Tests)	$ 3,800.00
75083	Open Grade Asphalt Concrete Mix Design (ASTM D7064, CTM 368)	$ 1,700.00
75109	Superpave Mix Design (Excluding Aggregate Quality Tests)	$ 4,900.00
75113	Superpave Mix Design, with RAP (Excluding Aggregate Quality Tests)	$ 6,500.00
75075	Effect of Moisture on Asphalt Paving Mixtures, Pre-Mixed (ASTM D4867, AASHTO T283)	$ 1,000.00
75111	Hamburg Wheel Track Test, 20,000 passes, 4 briquettes (AASHTO T324)	$ 1,100.00
75039	Raveling Test of Cold Mixed Emulsified Asphalt (ASTM D7196)	$ 200.00
75067	Marshall Stability, wet set, 3 replicates (AASHTO T245)	$ 350.00
75068	Marshall Stability, dry set, 3 replicates (AASHTO T245)	$ 300.00
75070	Cold Recycled Asphalt Mix Design: 2 gradings each, 3 emulsion content (Caltrans LP-8)	$ 10,500.00
75114	Superpave Mix Design, with Rubber (Excluding Aggregate Quality Tests)	$ 6,600.00
75115	Superpave Mix Design, with Additives (Excluding Aggregate Quality Tests)	$ 5,790.00

Task Code	Brick Masonry Tests, ASTM C67	Rate
20301	Modulus of Rupture: Flexural	$ 90.00
20303	Compression Strength	$ 55.00
20305	Absorption: 5 Hour or 24 Hour	$ 60.00
20307	Absorption (Boil): 1, 2 or 5 Hours	$ 90.00
20309	Initial Rate of Absorption	$ 50.00
20311	Efflorescence	$ 70.00
20313	Cores: Compression	$ 65.00
20315	Shear Test on Brick Cores: 2 Faces	$ 90.00

Task Code	Concrete Block, ASTM C140	Rate
20321	Compression	$ 85.00
20323	Absorption/Moisture Content/Oven Dry Density	$ 85.00
20327	Linear Shrinkage (ASTM C426)	$ 225.00
20335	Web and Face Shell Measurements	$ 45.00
20329	Tension Test	$ 155.00
20331	Core Compression	$ 65.00
20333	Shear Test of Masonry Cores: 2 Faces	$ 90.00
20339	Efflorescence Tests	$ 70.00

Task Code	Masonry Prisms, ASTM C1314	Rate
20341	Compression Test: Composite Masonry Prisms Up To 8" x 16"	$ 190.00
20343	Compression Test: Composite Masonry Prisms Larger Than 8" x 16"	$ 250.00
20346	Prism Cord Modulus of Elasticity	$ 640.00
20347	Prism Cord Modulus of Elasticity with Transverse Strain (for double-wythe specimen)	$ 665.00

Task Code	Mortar and Grout	Rate
20351	Compression: 2" x 4" Mortar Cylinders (ASTM C780)	$ 55.00
20353	Compression: 3" x 3" x 6" Grout Prisms, Includes Trimming (ASTM C1019)	$ 40.00
20355	Compression: 2" Cubes (ASTM C109)	$ 55.00
20357	Compression: Cores (ASTM C42)	$ 65.00

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Task Code	Masonry Specimen Preparation	Rate
20155	Cutting of Cubes or Prisms	$ 65.00

Task Code	Fireproofing Tests	Rate
20401	Oven Dry Density (ASTM E605)	$ 70.00

Task Code	Gunite and Shotcrete Tests	Rate
20361	Core Compression Including Trimming (ASTM C42)	$ 65.00
20365	Compression: Cubes (Includes Saw Cutting)	$ 65.00

Task Code	Concrete Roof Fill: Gypsum, Vermiculite, Perlite, Lightweight Insulating Concrete, Etc.	Rate
20371	Compression Test (ASTM C495 and C472)	$ 55.00
20373	Air Dry Density (ASTM C472)	$ 40.00
20379	Oven Dry Density (ASTM C495)	$ 65.00

Task Code	Reinforcing Steel, ASTM A615, A706	Rate
20501	Tensile Test: # 11 or Smaller	$ 60.00
20503	Bend Test: # 11 or Smaller	$ 55.00
20504	Bend Test #14 or #18	$ 350.00
20505	Tensile Test: # 14	$ 240.00
20507	Tensile Test: # 18	$ 340.00

Task Code	Reinforcing Steel - Welded or Coupled Specimens	Rate
20521	Tensile Test: Welded/Coupled #11 and Smaller	$ 70.00
20523	Tensile Test: Welded/Coupled #14	$ 250.00
20525	Tensile Test: Welded/Coupled #18	$ 375.00
20529	Weld: Macroetch	$ 75.00
20531	Slippage Test - Caltrans (CTM 670)	$ 200.00
20532	Tensile Test: Welded Hoops #11 and Smaller	$ 145.00

Task Code	Metal and Steel Testing	Rate
20601	Tensile Strength: Up to 100K Pounds (Each)	$ 65.00
20603	Tensile Strength: Up to 200K Pounds (Each)	$ 75.00
20605	Tensile Strength: Up to 300K Pounds (Each)	$ 90.00
20607	Tensile Strength: Up to 400K Pounds (Each)	$ 140.00
20609	Tensile Strength: 400K to 600K Pounds (Each)	$ 350.00
20611	Tensile Strength: Stress-Strain Percent Offset	$ 175.00
20545	Weld: Macroetch	$ 75.00
20547	Weld: Fracture	$ 40.00
20615	Bend Test	$ 65.00
20617	Flattening Test	$ 70.00
20619	Hardness Test (ASTM E18)	$ 80.00
20630	Bolt: Axial Tensile Test (Up to 7/8" diameter)	$ 50.00
20631	Bolt: Wedge Tensile Test (Up to 7/8" diameter)	$ 65.00
20632	Bolt: Axial Tensile Test (Greater than 7/8" up to 1" diameter)	$ 70.00
20633	Bolt: Wedge Tensile Test (Greater than 7/8" up to 1" diameter)	$ 90.00
20634	Bolt: Axial Tensile Test (Greater than 1" diameter)	Quotation
20635	Bolt: Wedge Tensile Test (Greater than 1" diameter)	Quotation
20636	Bolt: Proof Load Test (Up to 7/8")	$ 75.00
20637	Bolt: Proof Load Test (Greater than 7/8" up to 1" diameter)	$ 95.00
20638	Bolt: Proof Load Test (Greater than 1")	Quotation
20639	Nut: Proof Load Test (Up to 7/8")	$ 55.00
20640	Nut: Proof Load Test (Greater than 7/8" up to 1" diameter)	$ 75.00
20641	Nut: Proof Load Test (Greater than 1")	Quotation

Task Code	Chemical Testing of Metal and Steel	Rate
80170	Steel Chemical Analysis	$ 160.00
80173	Weight of Galvanized Coating (ASTM A90)	$ 75.00
80176	Epoxy Coating Thickness	$ 80.00

Task Code	Machining and Preparation of Tensile and Bend Sample: Carbon Steel	Rate
20751	Machinist: Initial Preparation from Mock-up, Etc. (Per Hour)	$ 95.00
20753	Sawcut to Overall Width (Per 0.5" Thickness or Fraction Thereof)	$ 50.00
		$ 55.00
20755	Machine to Test Configuration: Milled Specimens	$ 70.00
20757	Machine to Test Configuration: Turned Specimens (Per 0.5" Thickness or Fraction Thereof)	$ 135.00
20759	Prepare Subsize Specimens (Per 0.5" Thickness or Fraction Thereof)	$ 85.00

Task Code	Charpy Impact	Rate
20621	Charpy Impact Ambient Temperature	$ 90.00
20623	Charpy Impact Reduced Temperature	$ 110.00

Task Code	Machining of Charpy Samples: Carbon Steel	Rate
20780	Cutting and Milling (Per 0.5" or Fraction Thereof)	$ 80.00
20783	Final Machining to Sample Configuration	$ 90.00

Task Code	Prestressing Wires and Tendons, (ASTM A416)	Rate
20701	Stress-Strain Analysis: Wire or Strands (Including Chart and Percent Offset)	$ 180.00
20703	Tensile Test Only	$ 135.00
20705	Tendons	Quotation

Task Code	Polymer Matrix Composite Materials (Fiberwrap)	Rate
20706	Tensile Strength – Set of 5 Specimens/batch/direction (ASTM D3039)	$ 1,350.00
20707	Tensile Strength – Additional Specimens (ASTM D3039)	$ 250.00
20708	Heating Chamber Time – Per 24 hr period	$ 95.00

Task Code	Calibration Services and Universal Machine Usage	Rate
20801	Calibration/Verification Services	Quotation
20803	Universal Test Machine Usage (Per Hour)	$ 350.00

Ceramic Tile Testing Division	Rate
The Ceramic Tile Institute of America (CTIOA) and Twining worked together to advance and develop technology designed to enhance the quality of materials and workmanship in the ceramic tile industry. A separate schedule of fees for these services is available upon request.	

Cyclic and Fatigue Testing Programs on Special Products/Parts	Quotation
Engineering and Technical supports/Design of Prototypes and Special Test Set-Up	Quotation
Fastener/Coupling Full Testing Program Per New Regulations: Tension, Tension/Bend, Shear, Double Shear, & Compressions	Quotation
Fiberglass/Composite Materials Field Testing Program (ASTM D1143 D1242, D2584, D4065, D4476, D4923, D7901, D7921, and D732)	Quotation
Field Testing of Structures and Structural Elements	Quotation
In-Place Shear Testing	Quotation
Materials and/or Product Evaluation Per Specifications	Quotation
Structural Dynamic Testing and Durability Analysis	Quotation

General Conditions

NOTE: Field inspection work conditions are established by contract with Operating Engineers, Local 12.
NOTE: A minimum of 24 hours notice is required for testing and inspection services.
NOTE: For projects subject to a Project Labor Agreement (PLA), if terms/conditions of the PLA are more restrictive those terms/conditions will apply.

Administrative Fees

All administrative costs including report distribution and Twining ConstructionHive system are billed at the following percentage of the monthly invoice total: 4%
Note that hard copies of reports will be sent only to governing jurisdictions that mandate them. All other parties will receive reports electronically. The administrative fee above will receive reports electronically. The administrative fee above will be increased by 1% if additional hard copies of reports are requested.

Minimum Charges (Inspection and Technician Personnel Only - Other Personnel Charged on Portal to Portal Basis)

2-Hour Minimum: Inspector arrives at jobsite, no work to perform.
4-Hour Minimum: 1 to 4 hours of inspection
8-Hour Minimum: Over 4 to 8 hours of inspection

Regular Time

The first 8 hours worked Monday through Friday between 5:00 a.m. and 5:00 p.m.

Time and One-Half (All Types of Inspection)

All shifts will be billed based on the time and date of their start. Any increment past 8 hours through 12 hours worked Monday through Friday and the first 12 hours on Saturday. Time and one-half will also be charged for the first four hours before 5:00 a.m. and after 5:00 p.m.

Double Time (All Types of Inspection)

All shifts will be billed based on the time and date of their start. After the first 12 hours worked Monday through Saturday, all day Sunday, holidays, and the first Saturday following the first Friday in June and December. After the first four hours worked before 5:00 a.m. and after 5:00 p.m. Holidays are New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving, the day after Thanksgiving and Christmas Day.

Meal Period

When personnel are required by their duties to work more than five consecutive hours without a one-half hour uninterrupted meal period, one half hour at double time rate will be charged in addition to any applicable overtime for actual hours worked.

Shift Differential (Applies to Regularly Scheduled Shifts Only)

A $1.00 per hour shift differential premium will be charged for all inspection hours that fall outside of the 5:00 a.m. to 5:00 p.m. time period. Twining will require 48-hour notice along with the General Contractors approved shift letter prior to beginning a shift that will include hours falling outside this time period. Should this notice not be provided, all work performed on that shift will be billed at the applicable overtime or double time rate.

If three shifts per day are required, the first shift will be billed at the standard rate. The second shift shall be billed in accordance with the previous paragraph.
The third shift shall be billed at 8 hours for the first 6 1/2 hours worked and appropriate overtime or double time for all hours thereafter.

Travel Time and Mileage

For projects outside a 50-mile radius from the nearest Twining facility, $0.70 per excess mile to and from the project will be charged for inspectors and technicians.
Other than small tools, whenever project related equipment is required to be transported to and from the project site, time and mileage for inspectors and field technicians will be billed on a portal to portal basis. For all projects, $0.70 per mile rate and applicable travel time will be charged portal to portal for engineers, consultants, supervisors, and laboratory technicians from the laboratory to the project site and return.

For work locations located 100 miles or more from Twining, travel time will be charged at the relevant rate for inspectors and technicians in addition to a subsistence allowance.

Weekend Sample Pick-Ups

In order to be in strict conformance with testing standards, it may be required that weekend pick-ups be performed (e.g. concrete specimens cast on Friday must be picked up on weekend in order to be in conformance with ASTM C31 requiring specimens to be moved to their final curing location within 48 hours of casting.) Applicable charges for weekend work will apply when this is required. Should these charges not be authorized, Twining will not be liable for any negative consequences.

Reimbursable Expenses

Parking, air fare, car rental, food and lodging, etc. will be charged at cost plus 20% per processed invoice, unless provided by client.

Project Specific Documents

Costs presented assume that client will provide project specific documents (plans, specifications, submittals, RFIs, etc.) for all inspection personnel. Should project specific documents be provided electronically through a "for fee" service, the client will be responsible for providing access and paying any fees for the service.

Project Site Facilities

Prices quoted assume that initial curing facilities for test samples that comply with relevant test standards and project requirements are provided by others. In addition, prices quoted assume that work/desk space for inspection staff are provided by others. Additional costs will apply should Twining be required to provide such facilities.

Subsistence

Subsistence on remote jobs will be charged per quotation.

Laboratory Testing Hours

Please note that laboratory testing will be billed on an hourly basis for non-standard tests. If testing is required to be performed on Saturdays, Sundays, holidays, or before 5:30 a.m. or after 4:00 p.m. on weekdays, an additional hourly charge with a minimum of one hour will be applied for the laboratory technician. 1.5 x regular test rate will be charged for rush testing.

Charges for Subcontracted Services

Material sent to outside laboratory for testing:	Cost plus 20%
Material sent to outside fabricator or machine shop:	Cost plus 20%
Glu-Lam beam inspection:	Cost plus 20%
Other subcontractors:	Cost plus 20%
Project exclusive equipment purchase:	Cost plus 20%

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.6

DATE: February 18, 2025

TO: City Council

FROM: Michael Wolfe, Public Works Director, (805) 385-8055, michael.wolfe@oxnard.org

SUBJECT: Multiple Agreements for On-Call Architectural Design Professional Engineering Services.

RECOMMENDATION

That the City Council approve and authorize the Mayor to execute the following Agreements, each with an initial term of two years from February 19, 2025, to February 18, 2027, with an option for three consecutive one-year period extensions ending February 18, 2030, for on-call professional engineering services for architectural design:

1. Agreement 32500354 with Black, O'Dowd and Associates, Inc. DBA BOA Architecture for a total amount not to exceed $750,000;
2. Agreement 32500359 with Jeff B. Zook, A Professional Architectural Corporation DBA Coastal Architects for a total amount not to exceed $750,000;
3. Agreement 32500364 with Roesling Nakamura Terada Architects, Inc. for a total amount not to exceed $750,000; and
4. Agreement 32500361 with Wallace Group, A California Corporation for a total amount not to exceed $750,000.

(Public Works and Transportation Committee approved 3-0 on January 28, 2025)

BACKGROUND

The Public Works Department (PW) utilizes professional consulting firms to provide licensed, technical expertise in various disciplines that support the development and implementation of the Capital Improvement Program (CIP) as well as other non-CIP projects. Utilization of these specialized contractors is necessary to provide services that supplement the skills and experience of City staff. It is in the City's interest to have a pool of these professional service contractors available on-call for a range of technical disciplines so that services can be procured, and needed work can proceed, in fairly short order.

Pre-approved on-call professional service agreements reduce the amount of time necessary to procure service contractors and thus facilitate the timely completion of certain categories of CIP and other projects. The specific services covered under this request include but are not limited to, general architectural design services, landscape design, producing reports, studies, master plans, conceptual designs, specifications, permitting requirements, budget estimates, preliminary studies, public outreach, renderings, drawings, specifications, estimates, scopes of work and other professional services including utility coordination and design services.

There were six previous architectural on-call professional service agreements, and these have or are set to expire between December 21, 2024, and March 1, 2025, after their three-year contractual term. The total value of these agreements was $6,000,000; of this amount, approximately $630,000 of work was ordered as tasks.

DISCUSSION

On October 9, 2024, the Purchasing Division issued a Request for Proposal (RFP) 25-34 for On-Call Architectural Services. Outreach efforts included direct notifications to three potential vendors, publication on

www.PublicPurchase.com, and posting on the City's Purchasing website. The deadline for proposal submissions was November 4, 2024, and the City received a total of 11 proposals from the following vendors:

Andrew Goodwin Designs	BFK Architecture + Planning	Black O'Dowd and Associates, Inc.
Coastal Architects	Environ Architecture, Inc	Hunter Smith & Associates, Inc.
Rania Alomar Architect, Inc	Roesling Nakamura Terada Architects, Inc.	SVA Architects, Inc
Tighe Architecture	Wallace Group	

A rating and selection process of the proposals was then performed by a panel that consisted of the Engineering Division Manager, two Senior Construction Project Managers, and a Construction Project Manager. Scoring criteria consisted of company profile, qualifications of proposed staff, relevant professional experience and performance, and overall responsiveness that best met the RFP criteria while being consistent with the City's municipal code. After a thorough review, the panel selected four firms to recommend for Agreement awards, with a determination that these vendors are the highest-ranked proposers based on the scoring criteria listed in the RFP and are consistent with the City's Purchasing Policy.

Following further review by the Purchasing Division, it was determined that these vendors meet all required City contractual requirements, including possession of a City business tax certificate, insurance certificates, and corporate filing with the California Secretary of State. Therefore, based upon the analysis and research performed to date, staff believes that the four recommended vendors are capable of successfully performing On-Call Professional Services to the City of Oxnard.

Services under these agreements will be acquired on an as-needed basis with individual task orders issued for each identified work requirement (task). These will be issued and managed by the Project Manager (PM) assigned to the project. Once a new requirement is identified, all contractors will be provided the Task Order requirement on which to provide a proposal, if they so choose. The contractors will then submit their respective proposals, which will include a description of the scope of work to be performed, the method by which the consultant plans on completing the work, and a cost and schedule for completion. It is the consultant's responsibility to determine the best and most cost-effective method to complete the work. Once the City has received all proposals, they will review each and make a selection of the firm based on factors that include price, experience, methods, and schedule.

STRATEGIC PRIORITIES

This agenda item supports the Infrastructure and Natural Resources strategy. The purpose of the Infrastructure and Natural Resources strategy is to preserve and improve our roads, utilities, parks, trees, water supply and natural resources through effective planning, prioritization, and an equitable and efficient use of available funding.

FINANCIAL IMPACT

The total cost for each agreement shall not exceed $750,000 per year for up to five years if all extension options are exercised. Funding for individual tasks will be sourced from projects identified in the City Council approved CIP or on rare occasions for City Divisions with non-CIP project requirements (e.g. Facilities division making minor office improvements). The respective Project Manager will ensure sufficient funding is available in the approved budget for related tasks prior to initiating work orders or services performed. Subsequent fiscal year allocations will be requested during the annual budget process.

COMMITTEE OUTCOME

Public Works and Transportation Committee approved 3-0 on January 28, 2025 to approve the staff recommendation and to forward the item for Council approval.

Prepared by: Morgan Kessler, City Engineer

ATTACHMENTS

1. Agreement 32500354 - BOA
2. Agreement 32500359 - Coastal Architects
3. Agreement 32500364 - RNT
4. Agreement 32500361 -Wallace Group
5. Prior Agreement Rates and Exhibits

ON-CALL PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OXNARD AND BLACK, O'DOWD AND ASSOCIATES, INC. DBA BOA ARCHITECTURE

By This On-Call Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of Black, O'Dowd and Associates, Inc. DBA BOA Architecture ("Consultant"), and Consultant agrees to perform the Services for City as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. City and Consultant may be individually referred to as "Party" or collectively as the "Parties."

1. **[INTENTIONALLY OMITTED]**

2. **SUMMARY DESCRIPTION OF SERVICES.**
   The Services to be performed pursuant to this agreement are described in the Scope of Services, attached hereto as Exhibit A. The City may require Consultant to perform all or a portion of these services through subsequently issued Task Orders. Task Orders will be in the form of the template described in and attached the Scope of Services. The Services under this Agreement will be provided on an on-call or as needed basis.
   Consultant is not be the exclusive provider of services to the City. The City does not guarantee a specified amount of work under this on-call agreement.

3. **PARTIES.**

   City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030.

   Black, O'Dowd and Associates, Inc. DBA BOA Architecture a corporation of the State of California, located at 1511 Cota Avenue, Long Beach, California 90813

4. **TERM OF AGREEMENT:** From: February 19, 2025 To: February 18, 2027

   A. Time is of the essence in this Agreement

   B. The City shall have the option to exercise (3) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and

conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.

C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.

D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. **AGREEMENT AMOUNT NOT TO EXCEED:** $750,000.00 [1]

6. **AGREEMENT EXHIBITS**. The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services and Task Order Template
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage

7. **DESIGNATED REPRESENTATIVES.** The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the Services under this Agreement. Additionally, Consultant's Services shall be performed or immediately supervised by the Consultant's Representative:

City Designated Representative	Consultant Designated Representative
Name: Morgan Kessler Title: City Engineer Phone: 805-385-7880 Email: morgan.kessler@oxnard.org Address: 305 W Third Street, East Wing, Second Floor Oxnard, CA 93030	Name: Edward Lok Ng Title: Architect/ LEED AP Phone: 310-480-7730 Email: lok.ng@boaarchitecture.com Address

8. **CONTRACTUAL PREREQUSITIES.** This Agreement must first be executed by the Consultant, after which the Agreement shall be approved as to form by the City

[1] This is not a guaranteed dollar amount. No services or work performed pursuant to a Task Order shall exceed the "Not to Exceed" Amount of the Contract or the agreed upon amount stated in the Task Order.

Attorney, then executed by the Mayor, or an authorized person on behalf of the City, and if executed by the Mayor shall also be executed by the City Clerk.

A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by the City.
B. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.
C. Consultant shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

9. CONSULTANT'S SERVICES.

A. Consultant shall perform only the type or category of services as set forth in the "Scope of Services," and pursuant to the information contained in the Task Orders issued pursuant to this agreement.
B. Task Orders may only be modified in writing by the City's Project Manager or Designated Representative.
C. The Services issued pursuant to a Task Order shall be coordinated with the designated City Project Manager set forth in Exhibit A and are subject to the direction of the City Manager or Department Director. Consultant hereby designates as its Project Manager, the individual identified in Section 7 of this Agreement, as the person responsible for the Services who shall coordinate with City's Project Manager in executing the Scope of Services and Task Order(s) under this Agreement.
D. Under no circumstances shall the Consultant exceed the amount stated in the City's Task Order or perform additional work or services that are not included in the Task Order

10. COMPENSATION. City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and based on the hourly rates and fees set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." Consultant's compensation shall not to exceed amount stated in the Task Order. Under no circumstances shall the Consultant perform work in excess of the amount stated in the Task Order or the not to exceed amount listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

A. The maximum not to exceed amount for any individual Task Order issued pursuant to this Agreement shall be $100,000.00 per Task Order or $200,000, if the Task Order is associated with an identified and approved Capitol Improvement Project.
B. Annual Rate and Fees adjustments must be requested in writing and shall not exceed 3% and are subject to approval by the City. Annual adjustments shall apply to Task Orders issued after the adjustment is approved and not retroactively to in progress Task Orders.

11. PAYMENT and INVOICES. The City shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the City disputes one or more items in an invoice, the City shall, within thirty (30) days after receipt of such invoice, notify the Consultant of the item(s) being disputed and the reason(s) therefore. The City may withhold payment for such disputed items until resolution of the dispute.

A. Payment Request. Consultant shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **pwinvoices@oxnard.org**.
B. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontracted Consultants.
C. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.
D. **Non-Appropriation of Funds.** Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and

unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this Agreement. The initial term, plus any option to extend shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 4(B), then this Agreement shall not be extended.**

13. **MODIFICATION OF AGREEMENT.** This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement or any Task Order issued under this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services under this Agreement or Task Order.

14. **TERMINATION OF AGREEMENT.** City may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 22 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. City shall be liable to Consultant only for work done by Consultant up to and including the date of termination of this Agreement unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant may terminate this Agreement at any time during the term of the Agreement by giving the City sixty (60) calendar days' prior written notice.

15. **[RESERVED]**

16. **INDEPENDENT CONTRACTOR.** Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or

agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any Services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such Services shall not materially interfere with the Services the Consultant shall perform for the City. The City retains the right to provide general instructions to and observe the Consultant in the performance of all Services done on behalf of the City.

Consultant and its employees, subconsultants, and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant T and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. **LAWFUL PERFORMANCE.** Consultant shall abide by all federal, state, and local laws and regulations as may be related to the performance of duties under this Agreement. Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Services under this Agreement.

18. **SAFETY REQUIREMENTS.** Consultant shall not perform any Services for the City when the Consultant is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the City's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The City reserves the right to issue restraining or cease and desist orders to Consultant when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of

Consultant 's work by City shall not operate as a release of the Consultant from such standard of care and workmanship.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

    A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
    (1) Has thoroughly reviewed and considered the services and work to be performed; and
    (2) Has reviewed the issues regarding the Scope of Services and Task Orders to be provided; and
    (3) Has carefully considered how the services and related work should be performed; and
    (4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. **OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY.** City shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by Consultant in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by City.

    A. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the Consultant pursuant to or in connection with this Agreement shall be the exclusive property of the City.
    B. Deliverables. Consultant shall deliver to the City the studies, plans, specifications, or other documents as are identified in the Scope of Services; and Consultant shall, upon completion of all work or termination of this Agreement, submit to the City all information developed in the course of the Consultant 's services. Consultant shall,

in such time and in such form as the City may require, furnish reports concerning the status of Services required under this Agreement. Consultant shall, upon request by City and upon completion or termination of this Agreement, deliver to the City all material furnished to Consultant by the City.

C. Records and Inspections**.** The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The City shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

D. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. Consultant may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for Consultant to perform its obligations pursuant to this Agreement. If Consultant is granted such access to confidential information, Consultant shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.

E. Disclosure of Information. Consultant shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to Consultant by the City or other information to which the Consultant has had access during the term of this Agreement without the prior written approval of the City's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

F. No Warranty. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Consultant in reliance on any Confidential Information disclosed under this Agreement.

21. **NOTICE OF BREACH AND OPPORTUNITY TO CURE.** Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

22. **NOTICE.** All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 7. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

23. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE.** Except as set forth in Subsection A of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City (collectively "Claims") which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

    A. The provisions of this Subsection apply only in the event that Consultant is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in

accordance with the applicable provisions of the California Business and Professions Code.

(1) Notwithstanding the provisions of Section 23 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, Consultant's duty to indemnify, hold harmless, and defend the City Indemnitees shall be limited to the extent that any Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

(2) In no event shall the costs of defense charged to Consultant exceed the Consultant's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

24. INSURANCE. Consultant shall obtain and maintain during the performance of any Services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Consultant shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. **LIVING WAGE REQUIREMENTS**. During the term of this Agreement, Consultant understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, Consultant will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the Services provided for by this Agreement. The Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. **PREVAILING WAGE REQUIREMENTS.** The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees. For further information regarding Prevailing Wage Requirements please refer to Exhibit "E" attached to this Agreement.
    A. To determine if this Agreement is subject to compliance monitoring and enforcement, go to: https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html
    B. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.
    C. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the Consultant.

27. **[RESERVED]**

28. **SUBCONTRACTING.** If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work or Task Order attached to this Agreement as "Exhibit A". Consultant is fully responsible for satisfactory completion of all its subcontractors' work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be

responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **CONFLICT OF INTEREST.** Consultant covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Consultant's Services under this Agreement. Consultant further covenants that in the performance of Services under this Agreement, no officer, employee or agent of Consultant having such interest shall be employed by it. In the event the City determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Consultant shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by Consultant may result in termination of this Agreement by the City.

30. **DISPUTES.** Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the City's Designated Representative, who shall reduce this decision to writing and mail a copy to the Consultant. The decision of the City's Designated Representative shall be final and conclusive unless Consultant requests mediation within ten (10) calendar days. Pending final decision of a dispute, the Consultant shall proceed diligently with the performance of the Agreement and in accordance with the decision of the City's Designated Representative.

31. **DISPUTE RESOLUTION.** Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an Agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until Agreement is reached by

the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. **ASSIGNMENT.** This Agreement is for the professional Services of Consultant. Any attempt by Consultant to assign the benefits or burdens of this Agreement without the prior written approval of City shall be prohibited and shall be null and void. Consultant 's Services pursuant to this Agreement shall be provided by the Consultant's Designated Representative or directly under his/her supervision, and Consultant shall not assign another to supervise the Consultant 's performance of this Agreement without the prior written approval of City, by and through the City's Designated Representative.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant's risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services or Task Orders set forth in Exhibit "A", Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **AUDIT.** City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant, or for other purposes relating to the Agreement. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of $10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Consultant shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Consultant shall include a copy of this Section in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

36. **ADVERTISING AND PUBLICITY.** Consultant shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

37. **NONDISCRIMINATORY EMPLOYMENT.** Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section.

38. **COVENANTS AND CONDITIONS.** Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

39. **WAIVER.** City's review or acceptance of, or payment for, work product prepared by Consultant under this Agreement will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Consultant's performance. A waiver by City of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

40. **FORCE MAJEURE.** Neither the Consultant nor the City shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the City.

41. **GOVERNING LAW.** The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.
42. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such

portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

43. **INTEGRATED AGREEMENT.** This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal Agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

44. **NO THIRD-PARTY BENEFICIARY.** This Agreement shall not be construed to be an Agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **EXECUTION – COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature or electronic signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

47. **INCONSISTENT OR CONFLICTING TERMS.** In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City and City's Designated Representative unless specifically agreed to in writing, and initiated by City's Designated Representative, as to each additional contractual term or condition.

48. **CAPTIONS AND HEADINGS.** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's Professional Services Agreement terms and conditions and insurance requirements and that Consultant hereby agrees to full compliance.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective on the date as written in Section 4 and upon signature of all Parties.

CITY OF OXNARD

☐Luis Mc Arthur, Mayor[1] Date
☐Jennifer Yates, Purchasing Manager[2]

ATTEST:

Lourdes A. López, City Clerk Date
(only if Mayor authorizes)

APPROVED AS TO FORM:

Stephen M. Fischer, Date
City Attorney (always required)

BLACK, O'DOWD AND ASSOCIATES, INC.
DBA BOA ARCHITECTURE

Edward Lok Ng, President Date

Kyle Ng, Secretary[3] Date

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000.

[2] The Purchasing Agent may execute any authorized agreement up to $200,000.

[3] The City requires the following for any contract:
● For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
● For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
● For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.
If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Black, O'Dowd and Associates, Inc. DBA BOA Architects)

SCOPE OF SERVICES

PROJECT MANAGER: Petros Gazazyan / 805-385-7902 / petros.gazazyan@oxnard.org

Utility coordination and design Services to include but not limited to the following:

Architectural and Design Scope of Services

- Develop architectural designs and specifications for new facilities or facility renovations.
- Design of renovations to facility interiors and exteriors.
- Design of structural rehabilitation and/or repair work for facilities or appurtenances.
- Design and specification of landscape and irrigation/architecture.
- Design work for the renovation, rehabilitation, replacement, and/or new construction of mechanical, electrical, HVAC, plumbing, life safety, and other facility systems.
- Design for rehabilitation or replacement of roofs, windows, doors, etc. for City of Oxnard-owned buildings.
- Design of facility site stormwater capture and/or mitigation systems and solutions.
- Preparation of CADD drawings and/or 3-D renderings which could include but not limited to as-builts, plans, and presentation materials. Consultant may be given reference materials by the City or expected to conduct their own measurements, surveys, and field visits as needed.
- Preparation of project construction documents for bid including plans, technical specifications, unit pricing sheets, and other documents necessary to solicit bids and proposals for project construction consistent with Federal, State, and local policies and practices.
- Preparation of conceptual designs including project feasibility and project alternatives.
- Development of cost estimation and value engineering analysis including operating and maintenance costs.

- Preparation of plans for project sequencing, scheduling, staging, temporary housing, and space planning.

- Support during and after construction including but not limited to: review of submittals, construction stakeout, design services, field investigations, attending pre-construction meetings, schedule analysis, and conflict/change order resolution.
- Design and development of parks including site layout, building design, parking lot design, circulation, recreation facilities, children's play areas and playground equipment, splash pads, passive recreation areas, park furnishings landscaping, stormwater management, and utility infrastructure.

Architectural and Engineering Evaluation and Testing Scope of Work

- Facility master planning including but not limited to determining/projecting City needs, facility assessment(s), and developing implementation plan(s) for maintenance, rehabilitation, and new construction.
- Existing facility assessments including but not limited to facility condition, stormwater, code compliance, ADA compliance, OSHA compliance, space needs, security and public safety, building envelope testing, and energy use.
- Structural Engineering services including but not limited to inspections and evaluations of the interior and/or exterior of existing facilities.
- Mechanical, Electrical, HVAC, Plumbing, Life Safety, Lighting, and other facility systems evaluations and assessments
- Geotechnical Engineering and Testing services
- Exterior and interior surveying services which may include facilities/buildings survey, tree survey, and site survey.
- Tree impact evaluation.

Sustainable Public Facility Services Scope of Work

- Cost-benefit analysis, which may include recommendations, on implementing sustainable and green building practices for facility projects including renovation, new construction, and existing City policies and practices.
- Recommendations, analysis, assessments, and evaluations regarding sustainable design and practices for City facilities and facility projects.

TASK ORDER FORM

City of Oxnard

Insert Department Name

305 West Third Street, East Wing Oxnard, California 93030

TASK ORDER

All Task Orders must include a copy of the vendor proposal/estimate

Task Order No.:	Agreement No.:
Task Order NTE Amount:	Agreement NTE Amount:
City Purchase Order No.:	Agreement Type:
Prime Consultant:	Subconsultant(s):

PROJECT TITLE OR SPECIFICATION NO.:

PROJECT DESCRIPTION:

DESCRIPTION OF SERVICES TO BE PERFORMED UNDER THIS TASK ORDER: TIME FOR

COMPLETION OF SERVICES UNDER THIS TASK ORDER:

COMPENSATION FOR SERVICES SHALL NOT EXCEED THE TASK ORDER NTE AMOUNT.

City Project Manager:

Consultant Project Manager:

Services under this Task Order shall not proceed until this Task Order is executed by the City and Consultant and the City issues a Notice to Proceed. This Task Order may only be modified in writing and subject to City approval. Consultant shall not exceed the scope of the task order or NTE amount.

City of Oxnard		[Consultant]	
[designated rep]	Date	[Name & Title]	Date
Insert Department Assistant Director/Director	Date	[Name & Title]	Date

For internal City Use Only

Account Number and Project Number	*Example 1011234-53200-CXXXX*

EXHIBIT B

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Black, O'Dowd and Associates, Inc. DBA BOA Architecture)

SCHEDULE OF COMPENSATION

JOB TITLE	HOURLY (NOT TO EXCEED)
Principal Architect	$160.00
Project Manager	$150.00
Project Designer	$125.00
Senior Designer	$110.00
Senior Technical	$100.00
Draftsman/AutoCAD Operator	$95.00
Other Technical Staff	$85.00
Structural Engineer	$150.00
Mechanical Engineer	$160.00
Electrical Engineer	$160.00
"Other" Sub-Consultant	$150.00
Clerical Staff	$80.00
Prints	$0.50/s.f.

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Black, O'Dowd and Associates, Inc DBA BOA Architects)

INSURANCE REQUIREMENTS

Prior to contract approval and beginning of services under this agreement, Consultant must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of $1,000,000, with neither Consultant nor listed subconsultants having less than $500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

1/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG . $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

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GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
❒ COMMERCIAL GENERAL LIABILITY ❒ Claims Made
❒ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
❒ OWNERS & CONTRACTORS PROTECTIVE ❒ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
❒ GENERAL		
❒ PRODUCTS/COMPLETED OPERATIONS		
❒ PERSONAL & ADVERTISING INJURY		
❒ FIRE DAMAGE		
❒ _____		
❒ _____		

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____
Address: _____
_____
Telephone: (_____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)
Telephone: (____) _____ Date Signed: _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

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EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Black, O'Dowd and Associates, Inc. DBA BOA Architects)

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard Consultant/Professional Services contracts that may be governed by the Living Wage Policy.

A. Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

D. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2024

Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. This hourly rate shall be adjusted on July 1, 2024, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

c. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Black, O'Dowd and Associates, Inc. DBA BOA Architects)

PREVAILING WAGE

1. Consultant acknowledges that the Project defined in the Agreement between Consultant and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Consultant shall perform the Project as a public work. Consultant shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

3. Consultant is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).

4. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Consultant shall, as a penalty to City, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Consultant or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. Consultant shall comply with Labor Code Section 1776, which requires Consultant and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.

6. Consultant shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days

after concluding the Project, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Consultant may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Consultant must immediately notify City.

8. Consultant is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.

9. Consultant acknowledges that 8 hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810.

10. Consultant shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Consultant shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Consultant's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. Consultant shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Consultant shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Consultant shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, Consultant shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Consultant, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Consultant under this Section shall survive Agreement termination.

ON-CALL PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OXNARD AND JEFF B. ZOOK, A PROFESSIONAL ARCHITECTURAL CORPORATION DBA COASTAL ARCHITECTS

By This On-Call Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of Jeff B. Zook, A Professional Architectural Corporation dba Coastal Architects ("Consultant"), and Consultant agrees to perform the Services for City as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. City and Consultant may be individually referred to as "Party" or collectively as the "Parties."

1. **[INTENTIONALLY OMITTED]**

2. **SUMMARY DESCRIPTION OF SERVICES.**
   The Services to be performed pursuant to this agreement are described in the Scope of Services, attached hereto as Exhibit A. The City may require Consultant to perform all or a portion of these services through subsequently issued Task Orders. Task Orders will be in the form of the template described in and attached the Scope of Services. The Services under this Agreement will be provided on an on-call or as needed basis.
   Consultant is not be the exclusive provider of services to the City. The City does not guarantee a specified amount of work under this on-call agreement.

3. **PARTIES.**
   City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030.
   Jeff B. Zook, A Professional Architectural Corporation dba Coastal Architects a corporation of the State of California, located at 1567 Spinnaker Drive, Ventura, California 93001

4. **TERM OF AGREEMENT:** From: February 19, 2025 To: February 18, 2027

   A. Time is of the essence in this Agreement
   B. The City shall have the option to exercise (3) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and

conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.

C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.

D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. **AGREEMENT AMOUNT NOT TO EXCEED:** $750,000.00 [1]

6. **AGREEMENT EXHIBITS**. The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services and Task Order Template
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage

7. **DESIGNATED REPRESENTATIVES.** The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the Services under this Agreement. Additionally, Consultant's Services shall be performed or immediately supervised by the Consultant's Representative:

City Designated Representative	Consultant Designated Representative
Name: Morgan Kessler Title: City Engineer Phone: 805-385-7880 Email: morgan.kessler@oxnard.org Address: 305 W Third Street, East Wing, Second Floor Oxnard, CA 93030	Name: Jeff B. Zook Title: President Phone: 805-985-7654 Email: jeff@coastalarch.com Address

[1] This is not a guaranteed dollar amount. No services or work performed pursuant to a Task Order shall exceed the "Not to Exceed" Amount of the Contract or the agreed upon amount stated in the Task Order.

8. **CONTRACTUAL PREREQUSITIES.** This Agreement must first be executed by the Consultant, after which the Agreement shall be approved as to form by the City Attorney, then executed by the Mayor, or an authorized person on behalf of the City, and if executed by the Mayor shall also be executed by the City Clerk.

    A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by the City.
    B. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.
    C. Consultant shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

9. **CONSULTANT'S SERVICES.**

    A. Consultant shall perform only the type or category of services as set forth in the "Scope of Services," and pursuant to the information contained in the Task Orders issued pursuant to this agreement.
    B. Task Orders may only be modified in writing by the City's Project Manager or Designated Representative.
    C. The Services issued pursuant to a Task Order shall be coordinated with the designated City Project Manager set forth in Exhibit A and are subject to the direction of the City Manager or Department Director. Consultant hereby designates as its Project Manager, the individual identified in Section 7 of this Agreement, as the person responsible for the Services who shall coordinate with City's Project Manager in executing the Scope of Services and Task Order(s) under this Agreement.
    D. Under no circumstances shall the Consultant exceed the amount stated in the City's Task Order or perform additional work or services that are not included in the Task Order

10. **COMPENSATION.** City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and based on the hourly rates and fees set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." Consultant's compensation shall not to exceed amount stated in the Task Order. Under no circumstances shall the Consultant perform work in excess of the amount stated in the Task Order or the not to exceed amount listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation

may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

A. The maximum not to exceed amount for any individual Task Order issued pursuant to this Agreement shall be $100,000.00 per Task Order or $200,000, if the Task Order is associated with an identified and approved Capitol Improvement Project.
B. Annual Rate and Fees adjustments must be requested in writing and shall not exceed 3% and are subject to approval by the City. Annual adjustments shall apply to Task Orders issued after the adjustment is approved and not retroactively to in progress Task Orders.

11. PAYMENT and INVOICES. The City shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the City disputes one or more items in an invoice, the City shall, within thirty (30) days after receipt of such invoice, notify the Consultant of the item(s) being disputed and the reason(s) therefore. The City may withhold payment for such disputed items until resolution of the dispute.

A. Payment Request. Consultant shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **pwinvoices@oxnard.org**.
B. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontracted Consultants.
C. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.

D. **Non-Appropriation of Funds.** Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this Agreement. The initial term, plus any option to extend shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 4(B), then this Agreement shall not be extended.**

13. **MODIFICATION OF AGREEMENT.** This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement or any Task Order issued under this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services under this Agreement or Task Order.

14. **TERMINATION OF AGREEMENT.** City may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 22 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. City shall be liable to Consultant only for work done by Consultant up to and including the date of termination of this Agreement unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant may terminate this Agreement at any time during the term of the Agreement by giving the City sixty (60) calendar days' prior written notice.

15. **[RESERVED]**

16. **INDEPENDENT CONTRACTOR.** Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any Services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such Services shall not materially interfere with the Services the Consultant shall perform for the City. The City retains the right to provide general instructions to and observe the Consultant in the performance of all Services done on behalf of the City.

    Consultant and its employees, subconsultants, and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant T and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. **LAWFUL PERFORMANCE.** Consultant shall abide by all federal, state, and local laws and regulations as may be related to the performance of duties under this Agreement. Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Services under this Agreement.

18. **SAFETY REQUIREMENTS.** Consultant shall not perform any Services for the City when the Consultant is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the City's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The City reserves the right to issue restraining or cease and

desist orders to Consultant when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of Consultant 's work by City shall not operate as a release of the Consultant from such standard of care and workmanship.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

    A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
    (1) Has thoroughly reviewed and considered the services and work to be performed; and
    (2) Has reviewed the issues regarding the Scope of Services and Task Orders to be provided; and
    (3) Has carefully considered how the services and related work should be performed; and
    (4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. **OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY.** City shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by Consultant in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by City.
    A. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the Consultant pursuant to or in connection with this Agreement shall be the exclusive property of the City.
    B. Deliverables. Consultant shall deliver to the City the studies, plans, specifications, or other documents as are identified in the Scope of Services; and Consultant shall, upon completion of all work or

termination of this Agreement, submit to the City all information developed in the course of the Consultant 's services. Consultant shall, in such time and in such form as the City may require, furnish reports concerning the status of Services required under this Agreement. Consultant shall, upon request by City and upon completion or termination of this Agreement, deliver to the City all material furnished to Consultant by the City.

C. Records and Inspections**.** The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The City shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

D. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. Consultant may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for Consultant to perform its obligations pursuant to this Agreement. If Consultant is granted such access to confidential information, Consultant shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.

E. Disclosure of Information. Consultant shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to Consultant by the City or other information to which the Consultant has had access during the term of this Agreement without the prior written approval of the City's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

F. No Warranty. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by

Consultant in reliance on any Confidential Information disclosed under this Agreement.

21. **NOTICE OF BREACH AND OPPORTUNITY TO CURE.** Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

22. **NOTICE.** All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 7. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

23. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE.** Except as set forth in Subsection A of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City (collectively "Claims") which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

    A. The provisions of this Subsection apply only in the event that Consultant is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed

landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in accordance with the applicable provisions of the California Business and Professions Code.

(1) Notwithstanding the provisions of Section 23 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, Consultant's duty to indemnify, hold harmless, and defend the City Indemnitees shall be limited to the extent that any Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

(2) In no event shall the costs of defense charged to Consultant exceed the Consultant's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

24. INSURANCE. Consultant shall obtain and maintain during the performance of any Services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Consultant shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to

maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. **LIVING WAGE REQUIREMENTS**. During the term of this Agreement, Consultant understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, Consultant will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the Services provided for by this Agreement. The Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. **PREVAILING WAGE REQUIREMENTS.** The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees. For further information regarding Prevailing Wage Requirements please refer to Exhibit "E" attached to this Agreement.
    A. To determine if this Agreement is subject to compliance monitoring and enforcement, go to: https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html
    B. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.
    C. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the Consultant.

27. **[RESERVED]**

28. **SUBCONTRACTING.** If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work or Task Order attached to this Agreement as "Exhibit A". Consultant is fully responsible for

satisfactory completion of all its subcontractors' work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **CONFLICT OF INTEREST.** Consultant covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Consultant's Services under this Agreement. Consultant further covenants that in the performance of Services under this Agreement, no officer, employee or agent of Consultant having such interest shall be employed by it. In the event the City determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Consultant shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by Consultant may result in termination of this Agreement by the City.

30. **DISPUTES.** Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the City's Designated Representative, who shall reduce this decision to writing and mail a copy to the Consultant. The decision of the City's Designated Representative shall be final and conclusive unless Consultant requests mediation within ten (10) calendar days. Pending final decision of a dispute, the Consultant shall proceed diligently with the performance of the Agreement and in accordance with the decision of the City's Designated Representative.

31. **DISPUTE RESOLUTION.** Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an Agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once

commenced by a meeting with the mediator, shall last until Agreement is reached by the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. **ASSIGNMENT.** This Agreement is for the professional Services of Consultant. Any attempt by Consultant to assign the benefits or burdens of this Agreement without the prior written approval of City shall be prohibited and shall be null and void. Consultant 's Services pursuant to this Agreement shall be provided by the Consultant's Designated Representative or directly under his/her supervision, and Consultant shall not assign another to supervise the Consultant 's performance of this Agreement without the prior written approval of City, by and through the City's Designated Representative.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant's risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services or Task Orders set forth in Exhibit "A", Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **AUDIT.** City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant, or for other purposes relating to the Agreement. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of $10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Consultant shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Consultant shall include a copy of this Section in all contracts with its subcontractors, and Consultant

shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

36. **ADVERTISING AND PUBLICITY.** Consultant shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

37. **NONDISCRIMINATORY EMPLOYMENT.** Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section.

38. **COVENANTS AND CONDITIONS.** Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

39. **WAIVER.** City's review or acceptance of, or payment for, work product prepared by Consultant under this Agreement will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Consultant's performance. A waiver by City of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

40. **FORCE MAJEURE.** Neither the Consultant nor the City shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the City.

41. **GOVERNING LAW.** The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.

42. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

43. **INTEGRATED AGREEMENT.** This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal Agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

44. **NO THIRD-PARTY BENEFICIARY.** This Agreement shall not be construed to be an Agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **EXECUTION – COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature or electronic signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

47. **INCONSISTENT OR CONFLICTING TERMS.** In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City and City's Designated

Representative unless specifically agreed to in writing, and initiated by City's Designated Representative, as to each additional contractual term or condition.

48. **CAPTIONS AND HEADINGS.** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's Professional Services Agreement terms and conditions and insurance requirements and that Consultant hereby agrees to full compliance.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective on the date as written in Section 4 and upon signature of all Parties.

CITY OF OXNARD

☑Luis Mc Arthur, Mayor[1] Date
☐Jennifer Yates, Purchasing Manager[2]

ATTEST:

Lourdes A. López, City Clerk Date
(only if Mayor authorizes)

APPROVED AS TO FORM:

Stephen M. Fischer, Date
City Attorney (always required)

JEFF B. ZOOK, A PROFESSIONAL ARCHITECTURAL CORPORATION DBA COASTAL ARCHITECTS

Jeffrey B. Zook, President Date

Tobi N. Zook, Secretary[3] Date

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000.

[2] The Purchasing Agent may execute any authorized agreement up to $200,000.

[3] The City requires the following for any contract:
● For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
● For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
● For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.
If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Jeff B. Zook, A Professional Architectural Corporation dba Coastal Architects)

SCOPE OF SERVICES

PROJECT MANAGER: Petros Gazazyan / 805-385-7902 / petros.gazazyan@oxnard.org

Utility coordination and design Services to include but not limited to the following:

Architectural and Design Scope of Services

- Develop architectural designs and specifications for new facilities or facility renovations.
- Design of renovations to facility interiors and exteriors.
- Design of structural rehabilitation and/or repair work for facilities or appurtenances.
- Design and specification of landscape and irrigation/architecture.
- Design work for the renovation, rehabilitation, replacement, and/or new construction of mechanical, electrical, HVAC, plumbing, life safety, and other facility systems.
- Design for rehabilitation or replacement of roofs, windows, doors, etc. for City of Oxnard-owned buildings.
- Design of facility site stormwater capture and/or mitigation systems and solutions.
- Preparation of CADD drawings and/or 3-D renderings which could include but not limited to as-builts, plans, and presentation materials. Consultant may be given reference materials by the City or expected to conduct their own measurements, surveys, and field visits as needed.
- Preparation of project construction documents for bid including plans, technical specifications, unit pricing sheets, and other documents necessary to solicit bids and proposals for project construction consistent with Federal, State, and local policies and practices.
- Preparation of conceptual designs including project feasibility and project alternatives.
- Development of cost estimation and value engineering analysis including operating and maintenance costs.

- Preparation of plans for project sequencing, scheduling, staging, temporary

housing, and space planning.

- Support during and after construction including but not limited to: review of submittals, construction stakeout, design services, field investigations, attending pre-construction meetings, schedule analysis, and conflict/change order resolution.
- Design and development of parks including site layout, building design, parking lot design, circulation, recreation facilities, children's play areas and playground equipment, splash pads, passive recreation areas, park furnishings landscaping, stormwater management, and utility infrastructure.

Architectural and Engineering Evaluation and Testing Scope of Work

- Facility master planning including but not limited to determining/projecting City needs, facility assessment(s), and developing implementation plan(s) for maintenance, rehabilitation, and new construction.
- Existing facility assessments including but not limited to facility condition, stormwater, code compliance, ADA compliance, OSHA compliance, space needs, security and public safety, building envelope testing, and energy use.
- Structural Engineering services including but not limited to inspections and evaluations of the interior and/or exterior of existing facilities.
- Mechanical, Electrical, HVAC, Plumbing, Life Safety, Lighting, and other facility systems evaluations and assessments
- Geotechnical Engineering and Testing services
- Exterior and interior surveying services which may include facilities/buildings survey, tree survey, and site survey.
- Tree impact evaluation.

Sustainable Public Facility Services Scope of Work

- Cost-benefit analysis, which may include recommendations, on implementing sustainable and green building practices for facility projects including renovation, new construction, and existing City policies and practices.
- Recommendations, analysis, assessments, and evaluations regarding sustainable design and practices for City facilities and facility projects.

TASK ORDER FORM

City of Oxnard

Insert Department Name

305 West Third Street, East Wing Oxnard, California 93030

TASK ORDER

All Task Orders must include a copy of the vendor proposal/estimate

Task Order No.:	Agreement No.:
Task Order NTE Amount:	Agreement NTE Amount:
City Purchase Order No.:	Agreement Type:
Prime Consultant:	Subconsultant(s):

PROJECT TITLE OR SPECIFICATION NO.:

PROJECT DESCRIPTION:

DESCRIPTION OF SERVICES TO BE PERFORMED UNDER THIS TASK ORDER: TIME FOR

COMPLETION OF SERVICES UNDER THIS TASK ORDER:

COMPENSATION FOR SERVICES SHALL NOT EXCEED THE TASK ORDER NTE AMOUNT.

City Project Manager:

Consultant Project Manager:

Services under this Task Order shall not proceed until this Task Order is executed by the City and Consultant and the City issues a Notice to Proceed. This Task Order may only be modified in writing and subject to City approval. Consultant shall not exceed the scope of the task order or NTE amount.

City of Oxnard		[Consultant]	
[designated rep]	Date	[Name & Title]	Date
Insert Department Assistant Director/Director	Date	[Name & Title]	Date

For internal City Use Only

Account Number and Project Number	*Example 1011234-53200-CXXXX*

EXHIBIT B

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Jeff B. Zook, A Professional Architectural Corporation dba Coastal Architects)

SCHEDULE OF COMPENSATION

Architecture/Planning/Engineering	Hourly Rate
Principals	$225
Project Manager/Senior Designer/Senior Engineer	$200
Associate Architect/Designer	$175
BIM/Revit	$155
CAD	$135
Administrative	$90

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Jeff B. Zook, A Professional Architectural Corporation dba Coastal Architects)

INSURANCE REQUIREMENTS

Prior to contract approval and beginning of services under this agreement, Consultant must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of $1,000,000, with neither Consultant nor listed subconsultants having less than $500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

1/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG . $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

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GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
❒ COMMERCIAL GENERAL LIABILITY ❒ Claims Made
❒ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
❒ OWNERS & CONTRACTORS PROTECTIVE ❒ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
❒ GENERAL		
❒ PRODUCTS/COMPLETED OPERATIONS		
❒ PERSONAL & ADVERTISING INJURY		
❒ FIRE DAMAGE		
❒ _____		
❒ _____		

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____
Address: _____
_____
Telephone: (_____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)
Telephone: (____) _____ Date Signed: _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

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EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Jeff B. Zook, A Professional Architectural Corporation dba Coastal Architects)

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard Consultant/Professional Services contracts that may be governed by the Living Wage Policy.

A. Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

D. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2024

Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. This hourly rate shall be adjusted on July 1, 2024, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

c. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Jeff B. Zook, A Professional Architectural Corporation dba Coastal Architects)

PREVAILING WAGE

1. Consultant acknowledges that the Project defined in the Agreement between Consultant and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Consultant shall perform the Project as a public work. Consultant shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

3. Consultant is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).

4. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Consultant shall, as a penalty to City, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Consultant or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. Consultant shall comply with Labor Code Section 1776, which requires Consultant and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.

6. Consultant shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Consultant shall provide City with a copy of

the information submitted to any applicable apprenticeship program. Within 60 days after concluding the Project, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Consultant may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Consultant must immediately notify City.

8. Consultant is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.

9. Consultant acknowledges that 8 hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810.

10. Consultant shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Consultant shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Consultant's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. Consultant shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Consultant shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Consultant shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, Consultant shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Consultant, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Consultant under this Section shall survive Agreement termination.

ON-CALL PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OXNARD AND ROESLING NAKAMURA TERADA ARCHITECTS, Inc.

By This On-Call Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of Roesling Nakamura Terada Architects, Inc. ("Consultant"), and Consultant agrees to perform the Services for City as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. City and Consultant may be individually referred to as "Party" or collectively as the "Parties."

1. **[INTENTIONALLY OMITTED]**

2. **SUMMARY DESCRIPTION OF SERVICES.**
   The Services to be performed pursuant to this agreement are described in the Scope of Services, attached hereto as Exhibit A. The City may require Consultant to perform all or a portion of these services through subsequently issued Task Orders. Task Orders will be in the form of the template described in and attached the Scope of Services. The Services under this Agreement will be provided on an on-call or as needed basis.
   Consultant is not be the exclusive provider of services to the City. The City does not guarantee a specified amount of work under this on-call agreement.

3. **PARTIES.**

   City of Oxnard, a general law and municipal corporation of the State of California, located at 300 West Third Street, Oxnard California 93030.

   Roesling Nakamura Terada Architects, Inc. a corporation of the State of California, located at 845 15th Street Suite 500, San Diego, California 92101

4. **TERM OF AGREEMENT:** From: February 19, 2025 To: February 18, 2027

   A. Time is of the essence in this Agreement

   B. The City shall have the option to exercise (3) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and

conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.

C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.

D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. **AGREEMENT AMOUNT NOT TO EXCEED:** $750,000.00 [1]

6. **AGREEMENT EXHIBITS**. The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services and Task Order Template
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage

7. **DESIGNATED REPRESENTATIVES.** The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the Services under this Agreement. Additionally, Consultant's Services shall be performed or immediately supervised by the Consultant's Representative:

City Designated Representative	Consultant Designated Representative
Name: Morgan Kessler Title: City Engineer Phone: 805-385-7880 Email: morgan.kessler@oxnard.org Address: 305 W Third Street, East Wing, Second Floor Oxnard, CA 93030	Name: Tyson Cline Title: Principal Phone: 805-626-5330 Email: cline@rntarchitects.com Address 285 North Ventura Ave. Suite102, Ventura CA 93001

8. **CONTRACTUAL PREREQUSITIES.** This Agreement must first be executed by the Consultant, after which the Agreement shall be approved as to form by the City

[1] This is not a guaranteed dollar amount. No services or work performed pursuant to a Task Order shall exceed the "Not to Exceed" Amount of the Contract or the agreed upon amount stated in the Task Order.

Attorney, then executed by the Mayor, or an authorized person on behalf of the City, and if executed by the Mayor shall also be executed by the City Clerk.

A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by the City.
B. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.
C. Consultant shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

9. CONSULTANT'S SERVICES.

A. Consultant shall perform only the type or category of services as set forth in the "Scope of Services," and pursuant to the information contained in the Task Orders issued pursuant to this agreement.
B. Task Orders may only be modified in writing by the City's Project Manager or Designated Representative.
C. The Services issued pursuant to a Task Order shall be coordinated with the designated City Project Manager set forth in Exhibit A and are subject to the direction of the City Manager or Department Director. Consultant hereby designates as its Project Manager, the individual identified in Section 7 of this Agreement, as the person responsible for the Services who shall coordinate with City's Project Manager in executing the Scope of Services and Task Order(s) under this Agreement.
D. Under no circumstances shall the Consultant exceed the amount stated in the City's Task Order or perform additional work or services that are not included in the Task Order

10. COMPENSATION. City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and based on the hourly rates and fees set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." Consultant's compensation shall not to exceed amount stated in the Task Order. Under no circumstances shall the Consultant perform work in excess of the amount stated in the Task Order or the not to exceed amount listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

A. The maximum not to exceed amount for any individual Task Order issued pursuant to this Agreement shall be $100,000.00 per Task Order or $200,000, if the Task Order is associated with an identified and approved Capitol Improvement Project.
B. Annual Rate and Fees adjustments must be requested in writing and shall not exceed 3% and are subject to approval by the City. Annual adjustments shall apply to Task Orders issued after the adjustment is approved and not retroactively to in progress Task Orders.

11. PAYMENT and INVOICES. The City shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the City disputes one or more items in an invoice, the City shall, within thirty (30) days after receipt of such invoice, notify the Consultant of the item(s) being disputed and the reason(s) therefore. The City may withhold payment for such disputed items until resolution of the dispute.

A. Payment Request. Consultant shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **pwinvoices@oxnard.org**.
B. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontracted Consultants.
C. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.
D. **Non-Appropriation of Funds.** Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and

unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this Agreement. The initial term, plus any option to extend shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 4(B), then this Agreement shall not be extended.**

13. **MODIFICATION OF AGREEMENT.** This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement or any Task Order issued under this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services under this Agreement or Task Order.

14. **TERMINATION OF AGREEMENT.** City may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 22 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. City shall be liable to Consultant only for work done by Consultant up to and including the date of termination of this Agreement unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant may terminate this Agreement at any time during the term of the Agreement by giving the City sixty (60) calendar days' prior written notice.

15. **[RESERVED]**

16. **INDEPENDENT CONTRACTOR.** Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or

agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any Services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such Services shall not materially interfere with the Services the Consultant shall perform for the City. The City retains the right to provide general instructions to and observe the Consultant in the performance of all Services done on behalf of the City.

Consultant and its employees, subconsultants, and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant T and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. **LAWFUL PERFORMANCE.** Consultant shall abide by all federal, state, and local laws and regulations as may be related to the performance of duties under this Agreement. Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Services under this Agreement.

18. **SAFETY REQUIREMENTS.** Consultant shall not perform any Services for the City when the Consultant is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the City's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The City reserves the right to issue restraining or cease and desist orders to Consultant when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of

Consultant 's work by City shall not operate as a release of the Consultant from such standard of care and workmanship.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

    A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
    (1) Has thoroughly reviewed and considered the services and work to be performed; and
    (2) Has reviewed the issues regarding the Scope of Services and Task Orders to be provided; and
    (3) Has carefully considered how the services and related work should be performed; and
    (4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. **OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY.** City shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by Consultant in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by City.
    A. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the Consultant pursuant to or in connection with this Agreement shall be the exclusive property of the City.
    B. Deliverables. Consultant shall deliver to the City the studies, plans, specifications, or other documents as are identified in the Scope of Services; and Consultant shall, upon completion of all work or termination of this Agreement, submit to the City all information developed in the course of the Consultant 's services. Consultant shall,

in such time and in such form as the City may require, furnish reports concerning the status of Services required under this Agreement. Consultant shall, upon request by City and upon completion or termination of this Agreement, deliver to the City all material furnished to Consultant by the City.

C. Records and Inspections**.** The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The City shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

D. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. Consultant may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for Consultant to perform its obligations pursuant to this Agreement. If Consultant is granted such access to confidential information, Consultant shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.

E. Disclosure of Information. Consultant shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to Consultant by the City or other information to which the Consultant has had access during the term of this Agreement without the prior written approval of the City's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

F. No Warranty. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Consultant in reliance on any Confidential Information disclosed under this Agreement.

21. **NOTICE OF BREACH AND OPPORTUNITY TO CURE.** Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

22. **NOTICE.** All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 7. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

23. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE.** Except as set forth in Subsection A of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City (collectively "Claims") which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

    A. The provisions of this Subsection apply only in the event that Consultant is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in

accordance with the applicable provisions of the California Business and Professions Code.

(1) Notwithstanding the provisions of Section 23 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, Consultant's duty to indemnify, hold harmless, and defend the City Indemnitees shall be limited to the extent that any Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

(2) In no event shall the costs of defense charged to Consultant exceed the Consultant's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

24. INSURANCE. Consultant shall obtain and maintain during the performance of any Services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Consultant shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. LIVING WAGE REQUIREMENTS. During the term of this Agreement, Consultant understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, Consultant will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the Services provided for by this Agreement. The Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. PREVAILING WAGE REQUIREMENTS. The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees. For further information regarding Prevailing Wage Requirements please refer to Exhibit "E" attached to this Agreement.

A. To determine if this Agreement is subject to compliance monitoring and enforcement, go to: https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html
B. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.
C. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the Consultant.

27. [RESERVED]

28. SUBCONTRACTING. If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work or Task Order attached to this Agreement as "Exhibit A". Consultant is fully responsible for satisfactory completion of all its subcontractors' work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be

responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **CONFLICT OF INTEREST.** Consultant covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Consultant's Services under this Agreement. Consultant further covenants that in the performance of Services under this Agreement, no officer, employee or agent of Consultant having such interest shall be employed by it. In the event the City determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Consultant shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by Consultant may result in termination of this Agreement by the City.

30. **DISPUTES.** Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the City's Designated Representative, who shall reduce this decision to writing and mail a copy to the Consultant. The decision of the City's Designated Representative shall be final and conclusive unless Consultant requests mediation within ten (10) calendar days. Pending final decision of a dispute, the Consultant shall proceed diligently with the performance of the Agreement and in accordance with the decision of the City's Designated Representative.

31. **DISPUTE RESOLUTION.** Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an Agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until Agreement is reached by

the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. **ASSIGNMENT.** This Agreement is for the professional Services of Consultant. Any attempt by Consultant to assign the benefits or burdens of this Agreement without the prior written approval of City shall be prohibited and shall be null and void. Consultant 's Services pursuant to this Agreement shall be provided by the Consultant's Designated Representative or directly under his/her supervision, and Consultant shall not assign another to supervise the Consultant 's performance of this Agreement without the prior written approval of City, by and through the City's Designated Representative.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant's risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services or Task Orders set forth in Exhibit "A", Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **AUDIT.** City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant, or for other purposes relating to the Agreement. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of $10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Consultant shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Consultant shall include a copy of this Section in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

36. **ADVERTISING AND PUBLICITY.** Consultant shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

37. **NONDISCRIMINATORY EMPLOYMENT.** Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section.

38. **COVENANTS AND CONDITIONS.** Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

39. **WAIVER.** City's review or acceptance of, or payment for, work product prepared by Consultant under this Agreement will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Consultant's performance. A waiver by City of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

40. **FORCE MAJEURE.** Neither the Consultant nor the City shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the City.

41. **GOVERNING LAW.** The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.
42. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such

portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

43. **INTEGRATED AGREEMENT.** This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal Agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

44. **NO THIRD-PARTY BENEFICIARY.** This Agreement shall not be construed to be an Agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **EXECUTION – COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature or electronic signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

47. **INCONSISTENT OR CONFLICTING TERMS.** In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City and City's Designated Representative unless specifically agreed to in writing, and initiated by City's Designated Representative, as to each additional contractual term or condition.

48. **CAPTIONS AND HEADINGS.** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's Professional Services Agreement terms and conditions and insurance requirements and that Consultant hereby agrees to full compliance.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective on the date as written in Section 4 and upon signature of all Parties.

CITY OF OXNARD

☑Luis Mc Arthur, Mayor[1] Date
☐Jennifer Yates, Purchasing Manager[2]

ATTEST:

Lourdes A. López, City Clerk Date
(only if Mayor authorizes)

APPROVED AS TO FORM:

Stephen M. Fischer, Date
City Attorney (always required)

ROESLING NAKAMURA TERADA ARCHITECTS, INC.

Tyson K. Cline, Board Director Date

Christopher R. Bradbury, CFO[3] Date

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000.

[2] The Purchasing Agent may execute any authorized agreement up to $200,000.

[3] The City requires the following for any contract:
● For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
● For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
● For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.
If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)

SCOPE OF SERVICES

PROJECT MANAGER: Petros Gazazyan / 805-385-7902 /petros.gazazyan@oxnard.org

Utility coordination and design Services to include but not limited to the following:

Architectural and Design Scope of Services

- Develop architectural designs and specifications for new facilities or facility renovations.
- Design of renovations to facility interiors and exteriors.
- Design of structural rehabilitation and/or repair work for facilities or appurtenances.
- Design and specification of landscape and irrigation/architecture.
- Design work for the renovation, rehabilitation, replacement, and/or new construction of mechanical, electrical, HVAC, plumbing, life safety, and other facility systems.
- Design for rehabilitation or replacement of roofs, windows, doors, etc. for City of Oxnard-owned buildings.
- Design of facility site stormwater capture and/or mitigation systems and solutions.
- Preparation of CADD drawings and/or 3-D renderings which could include but not limited to as-builts, plans, and presentation materials. Consultant may be given reference materials by the City or expected to conduct their own measurements, surveys, and field visits as needed.
- Preparation of project construction documents for bid including plans, technical specifications, unit pricing sheets, and other documents necessary to solicit bids and proposals for project construction consistent with Federal, State, and local policies and practices.
- Preparation of conceptual designs including project feasibility and project alternatives.
- Development of cost estimation and value engineering analysis including operating and maintenance costs.

- Preparation of plans for project sequencing, scheduling, staging, temporary housing, and space planning.
- Support during and after construction including but not limited to: review of submittals, construction stakeout, design services, field investigations, attending pre-construction meetings, schedule analysis, and conflict/change order resolution.
- Design and development of parks including site layout, building design, parking lot design, circulation, recreation facilities, children's play areas and playground equipment, splash pads, passive recreation areas, park furnishings landscaping, stormwater management, and utility infrastructure.

Architectural and Engineering Evaluation and Testing Scope of Work

- Facility master planning including but not limited to determining/projecting City needs, facility assessment(s), and developing implementation plan(s) for maintenance, rehabilitation, and new construction.
- Existing facility assessments including but not limited to facility condition, stormwater, code compliance, ADA compliance, OSHA compliance, space needs, security and public safety, building envelope testing, and energy use.
- Structural Engineering services including but not limited to inspections and evaluations of the interior and/or exterior of existing facilities.
- Mechanical, Electrical, HVAC, Plumbing, Life Safety, Lighting, and other facility systems evaluations and assessments
- Geotechnical Engineering and Testing services
- Exterior and interior surveying services which may include facilities/buildings survey, tree survey, and site survey.
- Tree impact evaluation.

Sustainable Public Facility Services Scope of Work

- Cost-benefit analysis, which may include recommendations, on implementing sustainable and green building practices for facility projects including renovation, new construction, and existing City policies and practices.
- Recommendations, analysis, assessments, and evaluations regarding sustainable design and practices for City facilities and facility projects.

TASK ORDER FORM

City of Oxnard

Insert Department Name

305 West Third Street, East Wing Oxnard, California 93030

TASK ORDER

All Task Orders must include a copy of the vendor proposal/estimate

Task Order No.:	Agreement No.:
Task Order NTE Amount:	Agreement NTE Amount:
City Purchase Order No.:	Agreement Type:
Prime Consultant:	Subconsultant(s):

PROJECT TITLE OR SPECIFICATION NO.:

PROJECT DESCRIPTION:

DESCRIPTION OF SERVICES TO BE PERFORMED UNDER THIS TASK ORDER: TIME FOR

COMPLETION OF SERVICES UNDER THIS TASK ORDER:

COMPENSATION FOR SERVICES SHALL NOT EXCEED THE TASK ORDER NTE AMOUNT.

City Project Manager:

Consultant Project Manager:

Services under this Task Order shall not proceed until this Task Order is executed by the City and Consultant and the City issues a Notice to Proceed. This Task Order may only be modified in writing and subject to City approval. Consultant shall not exceed the scope of the task order or NTE amount.

City of Oxnard		[Consultant]	
[designated rep]	Date	[Name & Title]	Date
Insert Department Assistant Director/Director	Date	[Name & Title]	Date

For internal City Use Only

Account Number and Project Number	*Example 1011234-53200-CXXXX*

EXHIBIT B

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)

SCHEDULE OF COMPENSATION

ARCHITECT	
Roesling Nakamura Terada Architects, Inc. (RNT)	
Position	**Hourly Rate**
Principal	$290
Associate/Project Manager	$245
Project Architect	$210
Designer	$210
Draftsperson	$160
Administrative	$110
CIVIL ENGINEER	
Encompass Consultant Group, Inc. (ECG)	
Position	**Hourly Rate**
Designer	$125
Senior Designer	$165
Assistant Engineer I	$155
Assistant Engineer II	$165
Associate Engineer	$175
Senior Engineer I	$190
Senior Engineer II	$205
Principal Engineer	$220
Assistant Surveyor I	$155
Assistant Surveyor II	$165
Associate Surveyor	$175
Senior Surveyor I	$190
Senior Surveyor II	$205
Principal Surveyor	$220
One-Man Survey Crew (Prevailing Wage)	$220
Two-Man Survey Crew (Prevailing Wage)	$224
Three-Man Survey Crew (Prevailing Wage)	$475

STRUCTURAL ENGINEER	
Orion Structural Group, Inc.	
Position	**Hourly Rate**
Principal	$190
Senior Engineer	$160
Designer	$130
KPFF	
Position	Hourly Rate
Principal in Charge	$290
Senior Project Manager	$235
Project Manager	$215
Project Engineer	$180
Design Engineer	$165
Lead Modeler	$190
Modeler	$140
Administrative	$110
MEP ENGINEERING / FIRE PROTECTION	
Salas O'Brien	
Position	**Hourly Rate**
Principal	$275
Associate / Supervising Engineer	$220
Project Engineer	$200
Project Manager	$190
Senior Designer	$180
Designer	$160
Drafter	$120
Clerical	$100
LANDSCAPE ARCHITECT	
PCLD	
Position	**Hourly Rate**
Principal	$190
Landscape Architect	$165
Landscape Designer	$110
Administrative	$75

COST MANAGEMENT	
Cumming	
Position	**Hourly Rate**
Managing Principal / Vice President	$310
Managing Director	$235
Associate Director	$210
Senior cost Manager	$190
Cost Manager	$175
Assistant Cost Manager	$110
PREVIOUS CONTRACTED SUBCONSULTANTS	
Gausman & Moore Associates	
Position	**Hourly Rate**
Partner / Principal	$260
Senior Registered Engineer	$240
Registered Engineer	$200
Senior Graduate Engineer	$190
Graduate Engineer	$150
Senior Project Manager	$220
Project Manager	$190
Senior Designer	$170
Designer	$120
Computer-Aided Design / Drafter	$120
Administrative	$85
Labib Funk + Associates (LFA)	
Position	**Hourly Rate**
Principal	$275
Project Manager	$215
Project Engineer	$185
Drafter / CAD Operator	$145
Administrative	$95
Lewis Engineering, Inc.	
Position	**Hourly Rate**
Principal Civil Engineer	$150
Engineering Technician	$120
Project Manager	$100

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)

INSURANCE REQUIREMENTS

Prior to contract approval and beginning of services under this agreement, Consultant must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of $1,000,000, The professional liability/errors and omissions shall be practice policy limits applicable to all work insurance with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled, without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 04/2013 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

12/24

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG . $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

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GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
❒ COMMERCIAL GENERAL LIABILITY ❒ Claims Made
❒ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
❒ OWNERS & CONTRACTORS PROTECTIVE ❒ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
❒ GENERAL		
❒ PRODUCTS/COMPLETED OPERATIONS		
❒ PERSONAL & ADVERTISING INJURY		
❒ FIRE DAMAGE		
❒ _____		
❒ _____		

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____
Address: _____
_____
Telephone: (_____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)
Telephone: (____) _____ Date Signed: _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

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EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard Consultant/Professional Services contracts that may be governed by the Living Wage Policy.

A. Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

D. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2024

Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. This hourly rate shall be adjusted on July 1, 2024, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

c. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Roesling Nakamura Terada Architects, Inc.)

PREVAILING WAGE

1. Consultant acknowledges that the Project defined in the Agreement between Consultant and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Consultant shall perform the Project as a public work. Consultant shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

3. Consultant is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).

4. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Consultant shall, as a penalty to City, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Consultant or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. Consultant shall comply with Labor Code Section 1776, which requires Consultant and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.

6. Consultant shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days

after concluding the Project, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Consultant may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Consultant must immediately notify City.

8. Consultant is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.

9. Consultant acknowledges that 8 hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810.

10. Consultant shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Consultant shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Consultant's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. Consultant shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Consultant shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Consultant shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, Consultant shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Consultant, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Consultant under this Section shall survive Agreement termination.

ON-CALL PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OXNARD AND WALLACE GROUP, A CALIFORNIA CORPORATION

By This On-Call Professional Services Agreement ("Agreement"), the City of Oxnard ("City") agrees to engage the Services of Wallace Group, A California Corporation ("Consultant"), and Consultant agrees to perform the Services for City as herein described, for the compensation, during the term, and otherwise subject to the covenants and conditions herein set forth. City and Consultant may be individually referred to as "Party" or collectively as the "Parties."

1. **[INTENTIONALLY OMITTED]**

2. **SUMMARY DESCRIPTION OF SERVICES.**
   The Services to be performed pursuant to this agreement are described in the Scope of Services, attached hereto as Exhibit A. The City may require Consultant to perform all or a portion of these services through subsequently issued Task Orders. Task Orders will be in the form of the template described in and attached the Scope of Services. The Services under this Agreement will be provided on an on-call or as needed basis.
   Consultant is not be the exclusive provider of services to the City. The City does not guarantee a specified amount of work under this on-call agreement.

3. **PARTIES.**

   City of Oxnard, a general law and municipal corporation of the State of California,

   located at 300 West Third Street, Oxnard California 93030.

   Wallace Group, A California Corporation a corporation of the State of California,

   located at 612 Clarion Court San Luis Obispo, California 93401

4. **TERM OF AGREEMENT:** From: February 19, 2025 To: February 18, 2027

   A. Time is of the essence in this Agreement

   B. The City shall have the option to exercise (3) consecutive (1) one-year term extensions, in accordance with the scope of work and terms and conditions of this Agreement. Any price negotiations, if allowed, shall be negotiated at the time of contract extension.

C. This Agreement shall not exceed a total of five (5) years (including the initial term and any options to extend). The City in its sole discretion may exercise the option terms upon sixty (60) days written notice to the Consultant (or any other time if the parties so agree) in accordance with Section 12 of this Agreement. The option term shall be commenced by an amendment to this agreement.
D. All Services required of Consultant under this Agreement shall be completed on or before the end of the term of the Agreement.

5. **AGREEMENT AMOUNT NOT TO EXCEED:** $750,000.00 [1]

6. **AGREEMENT EXHIBITS**. The following documents memorialized below are the only exhibits to this Agreement and are incorporated by reference as though fully set forth herein. In the event of a conflict between the Exhibits and this Agreement, the Agreement controls.

Exhibit A: Scope of Services and Task Order Template
Exhibit B: Schedule of Compensation
Exhibit C: Insurance Requirements: City Insurance Exhibit INS-A
Exhibit D: Living Wage Policy
Exhibit E: Prevailing Wage

7. **DESIGNATED REPRESENTATIVES.** The Designated Representatives listed below shall be authorized to act on behalf of the named Party, be responsible for negotiations and contractual matters, and coordinate with each other to perform the Services under this Agreement. Additionally, Consultant's Services shall be performed or immediately supervised by the Consultant's Representative:

City Designated Representative	Consultant Designated Representative
Name: Morgan Kessler Title: City Engineer Phone: 805-385-7880 Email: morgan.kessler@oxnard.org Address: 305 W Third Street, East Wing, Second Floor Oxnard, CA 93030	Name: Brad Brechwald Title: CEO Phone: 805-544-4011 Email: bradb@wallacegroup.us Address

8. **CONTRACTUAL PREREQUSITIES.** This Agreement must first be executed by the Consultant, after which the Agreement shall be approved as to form by the City

[1] This is not a guaranteed dollar amount. No services or work performed pursuant to a Task Order shall exceed the "Not to Exceed" Amount of the Contract or the agreed upon amount stated in the Task Order.

Attorney, then executed by the Mayor, or an authorized person on behalf of the City, and if executed by the Mayor shall also be executed by the City Clerk.

A. Consultant is advised that any recommendation for Agreement award is not binding on City until the Agreement is fully executed and approved by the City.
B. All proof of a City tax certificate, insurance, and W-9 forms is required prior to execution of this Agreement.
C. Consultant shall not perform any work under this Agreement until a proof of insurance has been provided to the City as required under Section 24 of this Agreement.

9. CONSULTANT'S SERVICES.

A. Consultant shall perform only the type or category of services as set forth in the "Scope of Services," and pursuant to the information contained in the Task Orders issued pursuant to this agreement.
B. Task Orders may only be modified in writing by the City's Project Manager or Designated Representative.
C. The Services issued pursuant to a Task Order shall be coordinated with the designated City Project Manager set forth in Exhibit A and are subject to the direction of the City Manager or Department Director. Consultant hereby designates as its Project Manager, the individual identified in Section 7 of this Agreement, as the person responsible for the Services who shall coordinate with City's Project Manager in executing the Scope of Services and Task Order(s) under this Agreement.
D. Under no circumstances shall the Consultant exceed the amount stated in the City's Task Order or perform additional work or services that are not included in the Task Order

10. COMPENSATION. City shall pay Consultant for the Services performed pursuant to the terms of this Agreement and based on the hourly rates and fees set forth in the "Schedule of Compensation," attached to and incorporated into this Agreement as "Exhibit B." Consultant's compensation shall not to exceed amount stated in the Task Order. Under no circumstances shall the Consultant perform work in excess of the amount stated in the Task Order or the not to exceed amount listed in Section 5 of this Agreement. Once this Agreement is executed, the Schedule of Compensation may only be modified by written Amendment pursuant to Section 13 of this Agreement, and may be subject to approval by the City Council.

A. The maximum not to exceed amount for any individual Task Order issued pursuant to this Agreement shall be $100,000.00 per Task Order or $200,000, if the Task Order is associated with an identified and approved Capitol Improvement Project.
B. Annual Rate and Fees adjustments must be requested in writing and shall not exceed 3% and are subject to approval by the City. Annual adjustments shall apply to Task Orders issued after the adjustment is approved and not retroactively to in progress Task Orders.

11. PAYMENT and INVOICES. The City shall pay all undisputed portions of any applicable invoice within thirty (30) days after receipt of an invoice. In the event the City disputes one or more items in an invoice, the City shall, within thirty (30) days after receipt of such invoice, notify the Consultant of the item(s) being disputed and the reason(s) therefore. The City may withhold payment for such disputed items until resolution of the dispute.

A. Payment Request. Consultant shall submit a payment request to CITY by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Invoices may be emailed to: **pwinvoices@oxnard.org**.
B. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontracted Consultants.
C. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.
D. **Non-Appropriation of Funds.** Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and

unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

12. **OPTION TO EXTEND AGREEMENT.** When in the City's best interest, this Agreement may only be extended, if the City, in its discretion, exercises an option term in accordance with Section 4 subparagraphs (B) and (C) of this Agreement. The initial term, plus any option to extend shall not exceed a total of five (5) years. **If no option to extend the Agreement appears in section 4(B), then this Agreement shall not be extended.**

13. **MODIFICATION OF AGREEMENT.** This Agreement may be amended, modified, or otherwise altered, or its provisions waived, only upon mutual consent of the Parties by written amendment. The City may request that the Consultant perform Extra Services. As used herein, "Extra Services" means any services, which are determined by the City to be necessary for the proper completion of the project, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement or any Task Order issued under this Agreement. A written amendment signed by both Parties shall be required to authorize performance of and payment for Extra Services under this Agreement or Task Order.

14. **TERMINATION OF AGREEMENT.** City may terminate this Agreement at any time, with or without cause and without penalty, upon fifteen (15) calendar days' prior written notice pursuant to Section 22 of this Agreement. Such termination shall be effective on the date specified in the notice, or if no date is specified, then fifteen (15) calendar days from the date of the notice. City shall be liable to Consultant only for work done by Consultant up to and including the date of termination of this Agreement unless the termination is for cause, in which event Consultant need be compensated only to the extent required by law. Consultant may terminate this Agreement at any time during the term of the Agreement by giving the City sixty (60) calendar days' prior written notice.

15. **[RESERVED]**

16. **INDEPENDENT CONTRACTOR.** Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or

agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any Services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such Services shall not materially interfere with the Services the Consultant shall perform for the City. The City retains the right to provide general instructions to and observe the Consultant in the performance of all Services done on behalf of the City.

Consultant and its employees, subconsultants, and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant T and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents, subconsultants, or employees are in any manner agents, subconsultants, or employees of City.

17. **LAWFUL PERFORMANCE.** Consultant shall abide by all federal, state, and local laws and regulations as may be related to the performance of duties under this Agreement. Consultant, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Services under this Agreement.

18. **SAFETY REQUIREMENTS.** Consultant shall not perform any Services for the City when the Consultant is impaired by alcohol or a controlled substance. When there is reasonable cause to believe that any person has violated this provision, that person shall be immediately removed from the premises and be subject to any applicable civil and/or criminal penalties under the City's Code and/or under state law. All work performed under this Agreement shall be performed in such a manner as to provide safety to the public. The City reserves the right to issue restraining or cease and desist orders to Consultant when unsafe or harmful acts are observed or reported relative to the performance of the work under this Agreement. The acceptance of

Consultant 's work by City shall not operate as a release of the Consultant from such standard of care and workmanship.

19. **STANDARD OF PERFORMANCE; WARRANTY.** Consultant agrees to perform all Services required by this Agreement in a professional and competent manner, in accordance with the degree of skill and diligence which is normally employed by reputable professionals performing similar Services under similar conditions in the same or similar locality. Such Services shall also be performed in a manner which is reasonably satisfactory to City Project Manager, or designee (hereinafter the "Project Manager"), provided that discretion in determining what is satisfactory shall not alter the foregoing standard of care.

    A. In accordance with the standard of care set forth in the first sentence of Section 19, the Consultant agrees that it:
    (1) Has thoroughly reviewed and considered the services and work to be performed; and
    (2) Has reviewed the issues regarding the Scope of Services and Task Orders to be provided; and
    (3) Has carefully considered how the services and related work should be performed; and
    (4) Fully understands the facilities, difficulties and restrictions associated with performance of the services required by this Agreement.

20. **OWNERSHIP OF CONSULTANT'S WORK PRODUCT, CONFIDENTIALITY & DISCLOSURE, RECORDS & WARRANTY.** City shall be the owner of any and all technical documents and records, including, computations, plans, correspondence, and/or other pertinent data and information, both hard copy and electronic, gathered or prepared by Consultant in performance of this Agreement and shall be entitled to immediate possession of the same upon completion of the work under this Agreement, or at any earlier or later time when the same may be requested by City.

    A. Ownership of Documents. Every report, draft, work product, map, record, and other document reproduced, prepared, or caused to be prepared by the Consultant pursuant to or in connection with this Agreement shall be the exclusive property of the City.
    B. Deliverables. Consultant shall deliver to the City the studies, plans, specifications, or other documents as are identified in the Scope of Services; and Consultant shall, upon completion of all work or termination of this Agreement, submit to the City all information developed in the course of the Consultant 's services. Consultant shall,

in such time and in such form as the City may require, furnish reports concerning the status of Services required under this Agreement. Consultant shall, upon request by City and upon completion or termination of this Agreement, deliver to the City all material furnished to Consultant by the City.

C. Records and Inspections**.** The Consultant shall maintain full and accurate records, with respect to all Services and matters covered under this Agreement. Books and records pertaining to costs shall be kept and prepared in accordance with generally accepted accounting principles. The City shall have free access at all reasonable times to such records, both hard copy and electronic, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all program data, documents, proceedings, and activities.

D. Confidentiality. Information that is exempt from disclosure to the public is confidential. This includes information relating to the past, present, or future affairs of the City or information belonging to a third party whose information is in the City's possession or control under obligations of confidentiality. Consultant may be granted access to information that is exempt from disclosure to the public (Government Code Section 7920.505) and may contain "trade secrets" (see Government Code Section 7924.510(f)) when it is necessary for Consultant to perform its obligations pursuant to this Agreement. If Consultant is granted such access to confidential information, Consultant shall not be considered to be a member of the public as that term is used in Government Code Section 7920.515.

E. Disclosure of Information. Consultant shall not disclose, publish, or authorize others to disclose or publish, design data, drawings, specifications, reports, or other information pertaining to the projects assigned to Consultant by the City or other information to which the Consultant has had access during the term of this Agreement without the prior written approval of the City's Designated Representative during the term of this Agreement and for a period of two (2) years after the termination of this Agreement.

F. No Warranty. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Consultant in reliance on any Confidential Information disclosed under this Agreement.

21. **NOTICE OF BREACH AND OPPORTUNITY TO CURE.** Neither Party will be in breach of this Agreement where the breach is capable of being cured, or until written notice of the breach is received from the non-breaching Party. The Party charged with breach will have fifteen (15) calendar days from the date of receiving such notice in which to cure the breach or otherwise respond. If the circumstances leading to the charge that the Agreement was breached have not been cured or explained to the satisfaction of the other Party within fifteen (15) days from the date on which the breaching Party received notice of breach, the non-breaching Party may terminate this Agreement. Notice shall be given in the manner set forth in section 22.

22. **NOTICE.** All notices given or required to be given pursuant to this Agreement shall be in writing and may be given by personal delivery or by first-class mail. Notice sent by mail shall be addressed to each Party's Designated Representative as set forth above in Section 7. When addressed in accordance with this Section, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this Section.

23. **INDEMNIFICATION, HOLD HARMLESS & DEFENSE.** Except as set forth in Subsection A of this Section 23, and to the fullest extent permitted by law, Consultant shall immediately defend, indemnify, and hold harmless the City, its officers, employees, representatives, and agents (the "City Indemnitees"), from and against those actions, suits, proceedings, claims, demands, losses, costs, and expenses, including legal costs and reasonable attorneys' fees, for any personal injuries, deaths, or property damage, including property owned by the City (collectively "Claims") which may arise out of Consultant's negligence or willful misconduct in the performance of the services described in this Agreement, unless such Claims are proven to be caused by the negligence or willful misconduct of the City Indemnitees.

    A. The provisions of this Subsection apply only in the event that Consultant is a design professional within the meaning of California Civil Code section 2782.8 ("Design Professional"). The term Design Professional, as defined in said section, is limited to licensed architects, licensed landscape architects, registered professional engineers, professional land surveyors, and the business entities that offer such services in

accordance with the applicable provisions of the California Business and Professions Code.

(1) Notwithstanding the provisions of Section 23 above, to the extent that the services to be provided under this Agreement are those of a Design Professional, Consultant's duty to indemnify, hold harmless, and defend the City Indemnitees shall be limited to the extent that any Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or subconsultants in the performance of the services described in this Agreement.

(2) In no event shall the costs of defense charged to Consultant exceed the Consultant's proportionate percentage of fault, except as otherwise set forth in said Civil Code section 2782.8, the provisions of which are incorporated into this Agreement by this reference. Nothing in this Subsection b shall be construed to require Consultant to provide indemnification for Claims caused by the active negligence or willful misconduct of the City Indemnitees

B. The City does not and shall not waive any rights that it may have against Consultant under this Section, because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions of this Section 23 shall apply regardless of whether said insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost, or expense described herein.

C. The obligation to indemnify and defend, as set forth in this Section 23, is binding on the successors, assigns, or heirs of Consultant and shall survive the expiration or any early termination of this Agreement.

24. INSURANCE. Consultant shall obtain and maintain during the performance of any Services under this Agreement the insurance coverages listed within "Exhibit C", which is attached hereto and incorporated herein by this reference, unless the Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Such insurance must be issued by a company satisfactory to the Risk Manager. Consultant shall, before performance of any Services pursuant to this Agreement, file with the Risk Manager evidence of insurance coverage as specified in "Exhibit C". Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide renewal evidence shall be considered a material breach of this Agreement.

25. **LIVING WAGE REQUIREMENTS**. During the term of this Agreement, Consultant understands and agrees that if Living Wages are applicable, subject to the 2002 Oxnard City Council Living Wage Policy, attached as "Exhibit D" to this Agreement, Consultant will pay and/or provide the wages and/or benefits required therein to all of its employees engaged in whole or in part in performing the Services provided for by this Agreement. The Living Wage is updated on July 1 of each year, and the duty to pay the correct wage is the responsibility of the Consultant.

26. **PREVAILING WAGE REQUIREMENTS.** The payment of State prevailing wages as designated for Ventura County shall apply to public works projects. However, this section shall not apply to work performed on a public works project of twenty-five thousand dollars ($25,000) or less when the project is for construction, alteration, demolition, installation, or repair work; or to work performed on a public works project of fifteen thousand dollars ($15,000) or less when the project is for maintenance work. Prevailing wages are required to be paid to all workers, including subcontracted employees. For further information regarding Prevailing Wage Requirements please refer to Exhibit "E" attached to this Agreement.
    A. To determine if this Agreement is subject to compliance monitoring and enforcement, go to: https://www.dir.ca.gov/Public-Works/PublicWorksSB854FAQ.html
    B. It is unlawful to split, or separate into small portions, work orders, projects, purchases, or public works projects for the purpose of evading these prevailing wage requirements.
    C. In the event that there is a difference between the amount of wages to be paid under the City of Oxnard's local Living Wage requirements and the requirements of this provision, the wage rate that is the higher of the two shall be applicable to this Agreement. The duty to pay the correct wage is the responsibility of the Consultant.

27. **[RESERVED]**

28. **SUBCONTRACTING.** If Consultant requires the assistance of a subcontractor to render any Services under this Agreement, Consultant shall obtain prior written consent from the City before a subcontractor performs any service pursuant to this Agreement. All subcontractors shall be identified in the Scope of Work or Task Order attached to this Agreement as "Exhibit A". Consultant is fully responsible for satisfactory completion of all its subcontractors' work. All subcontractors shall be properly licensed and insured; and bonded, if applicable. Consultant shall be

responsible for all liabilities regardless of nature, type, or cause, arising out of or resulting from or in connection with subcontractors performance pursuant to this Agreement or subcontractors failure to comply with any of its obligations in connection with this Agreement.

29. **CONFLICT OF INTEREST.** Consultant covenants that it does not have any interest, nor shall it acquire any interest, directly or indirectly, which would conflict in any manner with the performance of Consultant's Services under this Agreement. Consultant further covenants that in the performance of Services under this Agreement, no officer, employee or agent of Consultant having such interest shall be employed by it. In the event the City determines that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests, Consultant shall file such Form 700 with the City Clerk's Office pursuant to the written instructions provided by the City Clerk. Acquisition or maintenance of a conflicting interest by Consultant may result in termination of this Agreement by the City.

30. **DISPUTES.** Except as otherwise provided in these provisions, any dispute concerning a question of fact arising under this Agreement, shall be decided by the City's Designated Representative, who shall reduce this decision to writing and mail a copy to the Consultant. The decision of the City's Designated Representative shall be final and conclusive unless Consultant requests mediation within ten (10) calendar days. Pending final decision of a dispute, the Consultant shall proceed diligently with the performance of the Agreement and in accordance with the decision of the City's Designated Representative.

31. **DISPUTE RESOLUTION.** Should an unresolved dispute arise out of this Agreement, any Party may request that it be submitted to mediation. The Parties shall meet in mediation within a reasonable time not to exceed forty five (45) days of a request. The mediator shall be agreed to by the mediating Parties. In the absence of an Agreement on a mediator, the Parties shall each submit one name from mediators listed by the American Arbitration Association, the California State Board of Mediation and Conciliation, or other agreed-upon service. The mediator shall be selected by a "blindfold" process. The cost of mediation shall be borne equally by both Parties. Neither Party shall be deemed the prevailing Party. No Party shall be permitted to file a legal action without first meeting in mediation and making a good faith attempt to reach a mediated settlement. The mediation process, once commenced by a meeting with the mediator, shall last until Agreement is reached by

the Parties but not more than sixty (60) calendar days, unless the maximum time is extended in writing by both Parties.

32. **ASSIGNMENT.** This Agreement is for the professional Services of Consultant. Any attempt by Consultant to assign the benefits or burdens of this Agreement without the prior written approval of City shall be prohibited and shall be null and void. Consultant 's Services pursuant to this Agreement shall be provided by the Consultant's Designated Representative or directly under his/her supervision, and Consultant shall not assign another to supervise the Consultant 's performance of this Agreement without the prior written approval of City, by and through the City's Designated Representative.

33. **CARE OF WORK.** Should Consultant discover any latent or unknown conditions materially differing from those inherent in the Services or as represented by the City, Consultant shall immediately inform the City of such fact and shall not provide any Services, except at Consultant's risk, until written instructions are received from the Project Manager.

34. **REPORTS.** Upon request by the Project Manager or as otherwise required by this Agreement, including but not limited to, the Scope of Services or Task Orders set forth in Exhibit "A", Consultant shall prepare and submit reports to the City concerning Consultant's performance of the Services required by this Agreement.

35. **AUDIT.** City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant, or for other purposes relating to the Agreement. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of $10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement or until an audit has been completed and accepted by City, whichever occurs later. Consultant shall maintain all such records in City or to promptly reimburse City for all reasonable costs incurred in conducting the audit at a location other than in City, including but not limited to expenses for personnel, salaries, private auditor, travel, lodging, meals and overhead. Consultant shall include a copy of this Section in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

36. **ADVERTISING AND PUBLICITY.** Consultant shall not use the name of or refer to City directly or indirectly in any advertisement, news release, or professional or trade publication without prior written approval from the City Manager. This Section shall survive the termination of this Agreement.

37. **NONDISCRIMINATORY EMPLOYMENT.** Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section.

38. **COVENANTS AND CONDITIONS.** Each term and each provision of this Agreement to be performed by Consultant shall be construed to be both a covenant and a condition.

39. **WAIVER.** City's review or acceptance of, or payment for, work product prepared by Consultant under this Agreement will not be construed to operate as a waiver of any rights City may have under this Agreement or of any cause of action arising from Consultant's performance. A waiver by City of any breach of any term, covenant, or condition contained in this Agreement will not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this Agreement, whether of the same or different character.

40. **FORCE MAJEURE.** Neither the Consultant nor the City shall be responsible for any delay caused by any contingency beyond their control, including, but not limited to, war or insurrection, walkouts by the Party's own employees, fires, natural calamities, riots, or demands or requirements of governmental agencies other than the City.

41. **GOVERNING LAW.** The terms of this Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the Superior Court of California, County of Ventura.
42. **SEVERABILITY.** If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, then such portion will be deemed modified to the extent necessary in the opinion of the court to render such

portion enforceable and, as so modified, such portion and the balance of this Agreement will continue in full force and effect and be enforceable.

43. **INTEGRATED AGREEMENT.** This Agreement and the attached exhibits referenced herein to this Agreement represent the entire understanding between the Parties. No verbal Agreement or implied covenant shall be held to vary the provisions of this Agreement. This Agreement shall bind and inure to the benefit of the Parties to this Agreement and any subsequent successors and assigns.

44. **NO THIRD-PARTY BENEFICIARY.** This Agreement shall not be construed to be an Agreement for the benefit of any third-party or parties, and no third party or parties shall have any claim or right of action under this Agreement.

45. **AUTHORITY TO EXECUTE.** Each Party hereto expressly warrants and represents that the signatories to this Agreement have the authority to execute this Agreement on behalf of its corporation, partnership, business entity, or governmental entity, and warrants and represents that the signatories have the authority to bind each Party to the performance of its obligations hereunder.

46. **EXECUTION – COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, but they shall not be effective nor enforceable unless and until it is executed with the handwritten signature or electronic signature of an authorized representative of each of the relevant Parties. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Party to this Agreement is in the physical possession of the Party seeking enforcement thereof.

47. **INCONSISTENT OR CONFLICTING TERMS.** In the event of any contradictions or inconsistencies between any attached documents or exhibits incorporated by reference herein and the provisions of the Agreement itself, the terms of the Agreement shall control. Any exhibit that is attached and incorporated by reference shall be limited to the purposes for which it is attached, as specified in this Agreement. Any contractual terms or conditions contained in such exhibit imposing additional obligations on the City are not binding upon the City and City's Designated Representative unless specifically agreed to in writing, and initiated by City's Designated Representative, as to each additional contractual term or condition.

48. **CAPTIONS AND HEADINGS.** The captions and headings contained in this Agreement are provided for identification purposes only and shall not be interpreted to limit or define the content, scope, or intent of the provisions described under the respective caption or heading.
49. **ACKNOWLEDGEMENT.** By signing below, Consultant acknowledges that it has reviewed the City's Professional Services Agreement terms and conditions and insurance requirements and that Consultant hereby agrees to full compliance.

[Signatures on next page]

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective on the date as written in Section 4 and upon signature of all Parties.

CITY OF OXNARD

☑Luis Mc Arthur, Mayor[1] Date
☐Jennifer Yates, Purchasing Manager[2]

ATTEST:

Lourdes A. López, City Clerk Date
(only if Mayor authorizes)

APPROVED AS TO FORM:

Stephen M. Fischer, Date
City Attorney (always required)

WALLACE GROUP, A CALIFORNIA CORPORATION

Brad Brechwald, CEO Date

Kari Wagner, Board Secretary[3] Date

[1] The City Council must authorize and the Mayor must execute any agreement over $200,000.

[2] The Purchasing Agent may execute any authorized agreement up to $200,000.

[3] The City requires the following for any contract:
● For a corporation, the signatures of the Board President, CEO or Vice President and of the Board Secretary, Assistant Secretary, CFO or Assistant Treasurer;
● For an LLC, the signatures of at least two managers of the LLC (company directors, not lower-level managers); or
● For a partnership, the signature of a partner. If the partnership is a limited partnership, the signer must be a general partner.
If the company has a different structure, or if the above-listed persons are not the appropriate signers, please submit to the City Attorney legally-binding documentation stating who can sign and bind your company.

EXHIBIT A

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Wallace Group, A California Corporation)

SCOPE OF SERVICES

PROJECT MANAGER: Petros Gazazyan / 805-385-7902 / petros.gazazyan@oxnard.org

Utility coordination and design Services to include but not limited to the following:

Architectural and Design Scope of Services

- Develop architectural designs and specifications for new facilities or facility renovations.
- Design of renovations to facility interiors and exteriors.
- Design of structural rehabilitation and/or repair work for facilities or appurtenances.
- Design and specification of landscape and irrigation/architecture.
- Design work for the renovation, rehabilitation, replacement, and/or new construction of mechanical, electrical, HVAC, plumbing, life safety, and other facility systems.
- Design for rehabilitation or replacement of roofs, windows, doors, etc. for City of Oxnard-owned buildings.
- Design of facility site stormwater capture and/or mitigation systems and solutions.
- Preparation of CADD drawings and/or 3-D renderings which could include but not limited to as-builts, plans, and presentation materials. Consultant may be given reference materials by the City or expected to conduct their own measurements, surveys, and field visits as needed.
- Preparation of project construction documents for bid including plans, technical specifications, unit pricing sheets, and other documents necessary to solicit bids and proposals for project construction consistent with Federal, State, and local policies and practices.
- Preparation of conceptual designs including project feasibility and project alternatives.
- Development of cost estimation and value engineering analysis including operating and maintenance costs.

- Preparation of plans for project sequencing, scheduling, staging, temporary housing, and space planning.

- Support during and after construction including but not limited to: review of submittals, construction stakeout, design services, field investigations, attending pre-construction meetings, schedule analysis, and conflict/change order resolution.
- Design and development of parks including site layout, building design, parking lot design, circulation, recreation facilities, children's play areas and playground equipment, splash pads, passive recreation areas, park furnishings landscaping, stormwater management, and utility infrastructure.

Architectural and Engineering Evaluation and Testing Scope of Work

- Facility master planning including but not limited to determining/projecting City needs, facility assessment(s), and developing implementation plan(s) for maintenance, rehabilitation, and new construction.
- Existing facility assessments including but not limited to facility condition, stormwater, code compliance, ADA compliance, OSHA compliance, space needs, security and public safety, building envelope testing, and energy use.
- Structural Engineering services including but not limited to inspections and evaluations of the interior and/or exterior of existing facilities.
- Mechanical, Electrical, HVAC, Plumbing, Life Safety, Lighting, and other facility systems evaluations and assessments
- Geotechnical Engineering and Testing services
- Exterior and interior surveying services which may include facilities/buildings survey, tree survey, and site survey.
- Tree impact evaluation.

Sustainable Public Facility Services Scope of Work

- Cost-benefit analysis, which may include recommendations, on implementing sustainable and green building practices for facility projects including renovation, new construction, and existing City policies and practices.
- Recommendations, analysis, assessments, and evaluations regarding sustainable design and practices for City facilities and facility projects.

TASK ORDER FORM

City of Oxnard

Insert Department Name

305 West Third Street, East Wing Oxnard, California 93030

TASK ORDER

All Task Orders must include a copy of the vendor proposal/estimate

Task Order No.:	Agreement No.:
Task Order NTE Amount:	Agreement NTE Amount:
City Purchase Order No.:	Agreement Type:
Prime Consultant:	Subconsultant(s):

PROJECT TITLE OR SPECIFICATION NO.:

PROJECT DESCRIPTION:

DESCRIPTION OF SERVICES TO BE PERFORMED UNDER THIS TASK ORDER: TIME FOR

COMPLETION OF SERVICES UNDER THIS TASK ORDER:

COMPENSATION FOR SERVICES SHALL NOT EXCEED THE TASK ORDER NTE AMOUNT.

City Project Manager:

Consultant Project Manager:

Services under this Task Order shall not proceed until this Task Order is executed by the City and Consultant and the City issues a Notice to Proceed. This Task Order may only be modified in writing and subject to City approval. Consultant shall not exceed the scope of the task order or NTE amount.

City of Oxnard		[Consultant]	
[designated rep]	Date	[Name & Title]	Date
Insert Department Assistant Director/Director	Date	[Name & Title]	Date

For internal City Use Only

Account Number and Project Number	*Example 1011234-53200-CXXXX*

EXHIBIT B

PROFESSIONAL SERVICE AGREEMENT
(CITY of Oxnard and Wallace Group, A California Corporation)

SCHEDULE OF COMPENSATION

ENGINEERING, DESIGN & SUPPORT SERVICES	
Position	**Hourly Rate**
Assistant Designer / Technician	$120
Designer / Technician I	$125
Designer / Technician II	$135
Designer / Technician III	$145
Designer / Technician IV	$155
Senior Designer / Technician I	$165
Senior Designer / Technician II	$172
Senior Designer / Technician III	$179
GIS Technical Specialist	$160
Senior GIS Technical Specialist	$170
Associate Engineer I	$135
Associate Engineer II	$145
Associate Engineer III	$155
Engineer I	$170
Engineer II	$175
Engineer III	$180
Engineer IV	$185
Senior Engineer I	$200
Senior Engineer II	$205
Senior Engineer III	$210
Director	$220
Principal Engineer / Consulting Engineer	$245
Principal	$270
SURVEYING SERVICES	
Position	**Hourly Rate**
Party Chief	$182
Party Chief (Prevailing Wage)	$250
Instrument Person	$125
Instrument Person (Prevailing Wage)	$150
Associate Survey Technician	$120
Survey Technician I	$135
Survey Technician II	$140
Survey Technician III	$150
Survey Technician IV	$155

Land Surveyor I	$160
Land Surveyor II	$170
Land Surveyor III	$180
Senior Land Surveyor I	$185
Senior Land Surveyor II	$190
Senior Land Surveyor III	$195
Director	$220
Principal Surveyor	$245
Principal	$270
PLANNING SERVICES	
Position	**Hourly Rate**
Associate Planner I	$110
Associate Planner II	$120
Planner I	$140
Planner II	$150
Planner III	$160
Planner IV	$170
Senior Planner I	$175
Senior Planner II	$180
Senior Planner III	$185
Director	$200
Principal Planner	$210
Principal	$270
LANDSCAPE ARCHITECTURE SERVICES	
Position	Hourly Rate
Associate Landscape Designer I	$105
Associate Landscape Designer II	$115
Designer I	$120
Designer II	$125
Designer III	$130
Designer IV	$135
Landscape Architect I	$140
Landscape Architect II	$145
Landscape Architect III	$150
Landscape Architect IV	$155
Senior Landscape Architect I	$160
Senior Landscape Architect II	$165
Senior Landscape Architect III	$170
Director	$185
Principal Landscape Architect	$210
Principal	$270
CONSTRUCTION MANAGEMENT / FIELD INSPECTION SERVICES	
Position	Hourly Rate
Construction Inspector I	$140

Construction Inspector II	$155
Senior Construction Inspector	$160
Construction Inspector (Prevailing Wage)	$180
Construction Office Tech I	$115
Construction Office Tech II	$125
Construction Office Tech III	$135
Assistant Resident Engineer I	$165
Assistant Resident Engineer II	$170
Resident Engineer I	$175
Resident Engineer II	$180
Resident Engineer III	$185
Senior Resident Engineer	$195
Director	$220
Principal Construction Manager	$245
Principal	$270
PUBLIC WORKS ADMINISTRATION SERVICES	
Position	**Hourly Rate**
Project Analyst I	$120
Project Analyst II	$130
Project Analyst III	$140
Project Analyst IV	$150
SUPPORT SERVICES	
Position	Hourly Rate
Office Assistant	$110
Project Assistant I	$120
Project Assistant II	$125
Project Assistant III	$135
ADDITIONAL PROFESSIONAL SERVICES	
Description	**Hourly Rate**
Expert witness preparation, testimony, court appearances, or depositions	$400
Overtime on projects (to meet scheduled requests)	1.5 times the employee's typical hourly rate

EXHIBIT C

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Wallace Group, A California Corporation)

INSURANCE REQUIREMENTS

Prior to contract approval and beginning of services under this agreement, Consultant must procure, agree to maintain and supply evidence of insurance at the levels listed and in accordance with the other provisions listed in this document.

INSURANCE REQUIREMENTS FOR CONSULTANTS
(WITH ERRORS AND OMISSIONS REQUIREMENT)

1. Consultant shall obtain and maintain during the performance of any services under this Agreement the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Consultant, its agents, representatives, employees or subconsultants.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business automobile liability insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office automobile liability coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Professional liability/errors and omissions insurance appropriate to Consultant's profession to a minimum coverage of $1,000,000, with neither Consultant nor listed subconsultants having less than $500,000 individually. The professional liability/errors and omissions insurance must be project specific with at least a one year extended reporting period, or longer upon request.

d. Workers' compensation insurance in compliance with the laws of the State of California, and employer's liability insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

2. Consultant shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-A. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before commencement of services. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

3. Consultant agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage canceled without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Consultant agrees that the commercial general liability and business automobile liability insurance policies shall be endorsed to name City, its City Council, officers, employees, agents and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees, agents and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-A or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary, except for Professional Liability/errors and omissions and Workers'Compensation, and not contributing to or in excess of any existing City insurance or self-insurance coverages (**this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

6. The insurer shall declare any deductibles or self-insured retentions to and be approved by the Risk Manager. At the option of the Risk Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City, its City Council, officers, employees and volunteers, or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

7. All insurance standards applicable to Consultant shall also be applicable to Consultant's subconsultants. Consultant agrees to maintain appropriate agreements with subconsultants and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

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INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that the Consultant/insurer use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-A.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $1,000,000 PRODUCTS COMP/OP AGG . $1,000,000 PERSONAL & ADV. INJURY $1,000,000 EACH OCCURRENCE $1,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

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GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
❒ COMMERCIAL GENERAL LIABILITY ❒ Claims Made
❒ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
❒ OWNERS & CONTRACTORS PROTECTIVE ❒ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
❒ GENERAL		
❒ PRODUCTS/COMPLETED OPERATIONS		
❒ PERSONAL & ADVERTISING INJURY		
❒ FIRE DAMAGE		
❒ _____		
❒ _____		

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____
Address: _____
_____
Telephone: (_____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)
Telephone: (____) _____ Date Signed: _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ❒ Included in Limits
❒ In Addition to Limits

❒ Deductible ❒ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to coverage. ❒ Per Occurrence ❒ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ❒ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

❒ COMMERCIAL AUTO POLICY
❒ BUSINESS AUTO POLICY
❒ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

❒ Broker/Agent ❒ Underwriter ❒ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

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EXHIBIT D

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Wallace Group, A California Corporation)

LIVING WAGE POLICY

Pursuant to the Living Wage Policy adopted July 9, 2002 by the City Council and effective October 1, 2002, the City Manager and City Attorney are directed to include the following language in all standard Consultant/Professional Services contracts that may be governed by the Living Wage Policy.

A. Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as the Living Wage Policy Exhibit. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

B. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by City Council on July 9, 2002 and effective October 1, 2002.

C. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

D. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

CITY OF OXNARD LIVING WAGE REQUIREMENTS
EFFECTIVE JULY 1, 2024

Consultant shall compensate any employee of Consultant who provides Services under this Agreement in accordance with the Living Wage Policy, attached hereto and incorporated herein by reference as Exhibit D. While this Agreement is in effect, Consultant shall pay such employee no less than $19.51 per hour for each hour that such employee provides Services under this Agreement. This hourly rate shall be adjusted on July 1, 2024, and each July 1 thereafter, according to the percentage change in the Consumer Price Index, all items, prepared by the Bureau of Labor Statistics for the Los Angeles area relating to all urban consumers (CPI-U), index base 1982-84=100, comparing May of the previous year to May of the current year. In addition, while this Agreement is in effect, Consultant shall provide to such employee no less than 96 hours of paid leave per calendar year.

a. Consultant agrees to post, at a location readily accessible to those employees providing Services to the City, a copy of the Living Wage Policy adopted by the Oxnard City Council on July 9, 2002 and effective October 1, 2002.

b. If Consultant fails to compensate such employee pursuant to the Living Wage Policy, the City Manager or designee shall terminate this Agreement on written notice to Consultant, effective immediately.

c. In addition, if Consultant fails to comply with the Living Wage Policy in any manner, Consultant shall pay to City a fine of $500 and shall pay to any employee providing Services under this Agreement a penalty of three times the amount or value of the compensation owed to such employee under the Living Wage Policy. Consultant shall pay such fine and penalty within fifteen (15) calendar days after the City Manager or designee provides written notice to Consultant of the amount owed.

EXHIBIT E

PROFESSIONAL SERVICES AGREEMENT
(CITY of Oxnard and Wallace Group, A California Corporation)

PREVAILING WAGE

1. Consultant acknowledges that the Project defined in the Agreement between Consultant and City is a "public work" as defined in Division 2, Part 7, Chapter 1 of the California Labor Code ("Chapter 1"), and that this Agreement is subject to Chapter 1 and the rules and regulations established by the Director of Industrial Relations ("DIR") implementing such statutes. Consultant shall perform the Project as a public work. Consultant shall comply with and be bound by all the terms, rules and regulations described in Chapter 1 and the DIR's rules and regulations as though set forth in full herein.

2. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages for each craft, classification, or type of worker needed to perform the Agreement are on file at City Hall and will be made available to any interested party on request. Consultant acknowledges receipt of a copy of the DIR determination of such prevailing rate of per diem wages, and Consultant shall post such rates at each job site covered by this Agreement.

3. Consultant is required to post job site notices, as prescribed by regulation. See Labor Code Section 1771.4(a)(2).

4. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. Consultant shall, as a penalty to City, forfeit not more than $200 for each calendar day or portion thereof for each worker paid less than the DIR's determined prevailing rates for the work or craft in which the worker is employed pursuant to this Agreement by Consultant or any subcontractor. The Labor Commissioner shall determine the amount of the penalty as described in Section 1775.

5. Consultant shall comply with Labor Code Section 1776, which requires Consultant and each subcontractor to (1) keep accurate payroll records and verify such records in writing under penalty of perjury, (2) certify and make such payroll records available for inspection, and (3) inform City of the location of the records.

6. Consultant shall comply with Labor Code Sections 1777.5, 1777.6 and 1777.7 and California Administrative Code Title 8, Section 200 et seq. concerning the employment of apprentices on public works projects for all apprenticeable occupations. Before commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within 60 days

after concluding the Project, Consultant and each of its subcontractors shall submit to City a verified statement of the journeyman and apprentice hours performed under this Agreement.

7. Consultant may not be debarred or suspended throughout the Agreement Term pursuant to Labor Code Section 1777.1 or 1777.7. If he, she or it becomes debarred or suspended in the Agreement Term, Consultant must immediately notify City.

8. Consultant is not qualified to bid on, be listed in a Bid proposal, or engage in the performance of any contract for public work, as defined in Labor Code Sections 1720 through 1861, unless currently registered and qualified to perform public work pursuant to Labor Code Section 1725.5. Consultant shall continue without interruption to stay registered and qualified to perform public work pursuant to Section 1725.5 for the duration of the term of this Agreement. This provision does not apply to construction, alteration, demolition, installation or repair work of $25,000 or less or to maintenance work of $15,000 or less.

9. Consultant acknowledges that 8 hours labor constitutes a legal day's work. Consultant shall comply with and be bound by Labor Code Section 1810.

10. Consultant shall comply with and be bound by Labor Code Section 1813 concerning penalties for workers who work excess hours. Consultant shall, as a penalty to City, forfeit $25 for each worker employed in the performance of this Agreement by Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than 8 hours in any calendar day and 40 hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code Section 1815, work performed by Consultant's employees in excess of 8 hours per day and 40 hours per week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

11. The Project listed in the Agreement is subject to compliance monitoring and enforcement by the DIR.

12. Consultant shall be responsible for each and every one of its subcontractors' compliance with Chapter 1, the DIR's rules and regulations, and Labor Code Sections 1860 and 3700. Consultant shall include in the written contract between it and each subcontractor a copy of, and a requirement that each subcontractor shall comply with, those statutory provisions. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractors' compliance, including without limitation, conducting a periodic review of the certified payroll records of each subcontractor, and upon becoming aware of the failure of the subcontractor to pay its workers the specified prevailing rate of wages, Consultant shall diligently take corrective action to halt or rectify any failure.

13. To the maximum extent, Consultant shall hold harmless, defend (with counsel approved by the City Attorney) and indemnify City, its legislative bodies, and its officials, officers, employees and agents from any demand or claim for damages, compensation, fines, penalties or other amounts arising out of or incidental to any acts or omissions listed above by any person or entity (including Consultant, its subcontractors, and each of their officials, officers, employees and agents) in connection with any work undertaken or in connection with the Agreement, including without limitation the payment of all attorneys' fees and other related costs. All duties of Consultant under this Section shall survive Agreement termination.

RATES AND COSTS EXHIBIT

TAB F. RATE SHEET

JOB TITLE	HOURLY (NOT TO EXCEED)
Principal Architect	$160.00
Project Manager	$150.00
Project Designer	$125.00
Senior Designer	$110.00
Senior Technical	$100.00
Draftsman/AutoCAD Operator	$95.00
Other Technical Staff	$85.00
Structural Engineer	$150.00
Mechanical Engineer	$160.00
Electrical Engineer	$160.00
"Other" Sub-Consultant	$150.00
Clerical Staff	$80.00
Prints	$0.50/s.f.

- The above hourly rates are fully burdened or loaded, including full compensation for all overhead and profit. Billing rates shall include provision for normal office costs, including, but not limited to: office rental, utilities, insurance, cell phone or radio, equipment, normal supplies and materials, in-house reproduction services, and local travel costs. There are no overtime rates.
- The above rates apply to any additional services needed beyond the scope of work.
- Invoicing will be submitted to the City on a per task completed basis. Milestone payments will be observed and it will be the responsibility of BOA Architecture to propose the completed task milestone payment schedule. The schedule submitted will be a recommendation to the City. The City will then evaluate and discuss with the consultant if any modifications are required.
- The fee schedule shall be good for up to three (3) years. Prices shall remain fixed for the first contract term. The fee schedule is subject to a 5% increase for each additional 1 year renewal thereafter.

RATES AND COSTS EXHIBIT

KTUA STAFF		
Name	**Title**	**Hourly Rate**
Mike Singleton	Senior Principal Planner/Landscape Architect	$185
Staff	Principal Landscape Architect	$175
Staff	Irrigation Design Manager	$165
Staff	Senior Associate Landscape Architect	$155
Matt Wilkins	Associate Landscape Architect	$125
Staff	Senior Designer	$120
Staff	Designer	$105
Staff	Clerical	$80

KTUA EXPENSES		
Description	**Cost**	**% Mark-up**
Mileage	at IRS approved rate	0%
Copy services/reproduction	at cost	10%
Delivery services	at cost	10%

SUBCONSULTANT - DELANE ENGINEERING		
Name	**Title**	**Hourly Rate**
Scott Uhles	Principal	$190
Steve Down	Project Manager	$175
Staff	Project Engineer	$150
Staff	Design Engineer	$130
Staff	Assistant Engineer	$90
Staff	Project Coordinator	$85
Staff	Office Support/ Clerical	$70
Staff	Student Engineer	$60
Staff	Site BIM Manager (P.E.)	$165
Staff	Site BIM Engineer	$105
Staff	Site BIM Technician	$80
Staff	Construction Inspector	$120
Staff	Qualified SWPPP Practitioner (QSP)	$110

RATES AND COSTS EXHIBIT

Listed below is the current schedule of hourly rates for work to be carried out under the On-Call Services agreement. The listed hourly rates are defined by billing classification and include all direct and indirect expenses and fees. This rate schedule will be honored for the duration of the On-Call Services agreement. (Audited total billing rates including direct labor, fringe, indirect costs, fee/profit and overhead expenses canbe provided for review upon request.)

PACIFIC COAST LAND DESIGN, INC.	
Principal	$190.00/hr
Project Manager / Landscape Architect	$165.00/hr
Landscape Designer	$110.00/hr
Administrative	$75.00/hr

ENCOMPASS CONSULTANT GROUP	
Principal Engineer	$190.00/hr
Senior Engineer II	$165.00/hr
Associate Engineer	$140.00/hr
Designer	$95.00/hr
Principal Surveyor	$180.0/hr
Two-Man Survey Crew	$255.00/hr

PROJECT RELATED REIMBURSABLE EXPENSES

Listed below are expenses PCLD typically bills to a project if incurred during the course of a project that is initiated from the On-Call Services agreement. PCLD will provide estimates of reimbursable expenses as part of the proposed scope of work for a given project. Reimbursable project costs will not be accrued until authorized by the City of Oxnard contract administrator.

- Reproduction of all documents, including postage and shipping charges shall be paid for at cost plus 15% for processing and handling.
- Special tests required due to site conditions.
- Sub-consultant services for work which the landscape architect is not licensed to provide.

RATES AND COSTS EXHIBIT

Hourly Billing Rates

ARCHITECT
Roesling Nakamura Terada Architects, Inc. (RNT)

	Per Hour
Principal	$273
Principal Architect/Coordinator	$273
Associate/Project Manager	$233
Project Architect	$198
Interior Designer	$182
Designer	$172
Draftsperson	$150
Administrative	$96

CIVIL ENGINEER
Encompass Consultant Group, Inc., (ECG)

	Per Hour
Designer	$100
Senior Designer	$130
Assistant Engineer I	$115
Assistant Engineer II	$130
Associate Engineer	$150
Senior Engineer I	$165
Senior Engineer II	$175
Principal Engineer	$195
Assistant Surveyor I	$115
Assistant Surveyor II	$130
Associate Surveyor	$150
Senior Surveyor I	$165
Senior Surveyor II	$175
Principal Surveyor	$195
One-Man Survey Crew (Prevailing Wage)	$180
Two-Man Survey Crew (Prevailing Wage)	$265
Three-Man Survey Crew (Prevailing Wage)	$365
Administrative	$65

CIVIL ENGINEER
Lewis Engineering, Inc.

	Per Hour
Principal Civil Engineer	$150
Engineering Technician	$120
Project Manager	$100

STRUCTURAL ENGINEER
KPFF

	Per Hour
Principal in Charge	$250
Senior Project Manager	$205
Project Manager	$185
Project Engineer	$155
Design Engineer	$140
Lead Modeler	$165
Modeler	$140
Administrative	$95

STRUCTURAL ENGINEER
Labib Funk + Associates (LFA)

	Per Hour
Principal	$275
Project Manager	$215
Project Engineer	$185
Drafter / CAD Operator	$145
Administrative	$95

MEP ENGINEERING / FIRE PROTECTION
Salas O'Brien

	Per Hour
Principal	$250
Vice President / Director / Associate	$230
Professional Engineer	$190
Design Engineer / Project Engineer	$180
Design / Program / Drafting Manager	$165
Program Specialist / Coordinator / Drafter	$135
Program / Project Assistant	$100
Senior Consultant	$315
Energy Consultant	$210

RATES AND COSTS EXHIBIT

EXHIBIT A-1 SCHEDULE 1

Bill Rate Ranges

ARCHITECTURE		
Architect	$	140
Assistant Manager of Architecture	$	180
Design Director	$	215
Designer I	$	95
Designer II	$	115
Designer III	$	135
Intern	$	70
Job Captain	$	135
Manager of Architecture	$	230
Principal	$	310
Project Architect	$	170
Project Designer	$	165
Project Manager	$	170
Senior Architect	$	200
Senior Designer	$	190
Senior Project Manager	$	210

ENGINEERING & SURVEYING		
Associate Engineer	$	125
Construction Inspector	$	160
Designer I	$	85
Designer II	$	110
Designer III (Structural)	$	125
Engineer I	$	125
Engineer II	$	150
Land Surveyor	$	150
Manager of Engineering Services	$	260
Manager of Surveying	$	210
Party Chief	$	130
Principal	$	310
Project Engineer	$	170
Project Manager	$	210
Senior Associate Engineer	$	170
Senior Designer	$	170
Senior Land Surveyor	$	180
Senior Party Chief	$	180
Senior Project Engineer	$	170
Supervisor of Surveying	$	190
Survey Technician I	$	85
Survey Technician II	$	105
Survey Technician III	$	140
Surveying Crew Rates		
REGULAR		
One person w/ GPS or Robotic Workstation	$	150
Two person	$	260
Three person	$	350
PREVAILING WAGE		
One person w/ GPS or Robotic Workstation	$	175
Two person	$	310
Three person	$	450

INTERIOR DESIGN		
Designer I	$	80
Designer II	$	105
Interior Designer I	$	115
Interior Designer II	$	135
Intern	$	70
Senior Interior Designer	$	175

LANDSCAPE ARCHITECTURE		
Assistant Designer	$	100
Associate Designer	$	115
Designer	$	125
Intern	$	70
Landscape Architect	$	135
Manager of Landscape Architecture	$	220
Principal	$	310
Principal Landscape Architect	$	180
Senior Designer	$	150
Senior Landscape Architect	$	160

PLANNING		
Assistant Planner	$	110
Associate Planner	$	140
Intern	$	70
Manager of Planning	$	230
Principal	$	310
Principal Planner	$	220
Senior Planner	$	185
Senior Urban Designer	$	185
Urban Designer	$	140

CORPORATE SERVICES		
Accounting Specialist	$	100
Business Development Coordinator	$	125
Chief Executive Officer	$	425
Graphic Designer	$	125
Marketing Manager	$	195
Marketing Specialist	$	135
Office Coordinator	$	110
Project Accountant	$	120
Project Administrator	$	110
Receptionist	$	70

Rev 12/30/2021

RATES AND COSTS EXHIBIT

RATE SHEET

Listed below are the all-inclusive rates of SVA and our selected subconsultants.

SVA Architects (Architect)

Partner/Principal	$225
Senior Project Architect/Manager	$195
Senior Designer	$185
Project Architect/Manager	$175
Job Captain	$155
Intermediate Technical Designer	$125
Junior Technical Designer	$100
Clerical Staff	$75

VCA Engineers (Civil Engineer)

Principal Engineer	$190
Lead/Senior Project Engineer	$165
Project Engineer	$150
Senior CADD Technician	$100

Coffman Engineers (Structural Engineer)

Principal I-III	$225-$265
Senior Discipline Manager	$215
Senior Discipline Engineer	$205
Senior Engineer	$180
Engineer I-III	$118 -$150
Senior Designer (CAD/BIM)	$143
Designer I-III (CAD/BIM)	$100-$130
Drafter I-II (CAD/BIM)	$90-$95
Clerical	$75

AE Group (Mechanical/Plumbing Engineer)

Mechanical Engineer	$225
Mechanical Engineering Assistants	$175

FBA Engineering (Electrical Engineer)

Principal / Project Director	$210
V.P. / Senior Associate	$160
Associate / Project Manager	$160
Construction Support	$135
Electrical Designer	$110
CAD / BIM Designer	$90
Technical Typist	$50

Jordan, Gilbert, Baine (Landscape Architect)

Principal	$165
Director of Design	$140
Director of Production	$140
Project Manager	$110
Landscape Designer	$90
CAD Designer	$85
Clerical	$55

Sierra West Group (Cost Estimator)

Chief Estimator	$125

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.7

DATE: February 18, 2025

TO: City Council

FROM: Steve Naveau, Human Resources Director, (805) 385-7947, steve.naveau@oxnard.org

SUBJECT: A Resolution Adding a CalPERS Medical Plan for NonPERS Elected Officials.

RECOMMENDATION

That the City Council adopt a resolution authorizing the City to add a medical plan for NonPERS Elected Officials.

(This item did not originate in Committee)

BACKGROUND

Currently, the City contracts with CalPERS for employee medical benefits. The current medical plan document provides that for an employee or elected official to enroll in the medical plan, they must also be enrolled in the CalPERS pension program. With regular employees, this is not an issue since CalPERS requires all regular full-time employees to be enrolled in the pension program. However, this is not the requirement for elected officials. Under the California Government Code, elected officials are exempt from the CalPERS pension program unless they request to participate.

The attached Resolution is required by CalPERS to add a health plan which will allow what is termed “NonPERS Elected Officials” to enroll in a health plan offered by the City through CalPERS. This change does not impact the City's medical contribution structure for those elected officials who opt into the medical plan under this program.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Steve Naveau, Human Resources Director

ATTACHMENTS

1. CalPERS Resolution 2.3.25

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ELECTING TO BE SUBJECT TO THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS WITH RESPECT TO A RECOGNIZED EMPLOYEE ORGANIZATION

WHEREAS, (1) A contracting agency meeting the eligibility requirements set forth in Government Code Section 22920, may obtain health benefits plan(s), as defined under Government Code Section 22777, by submitting a resolution to the Board of Administration of the California Public Employees' Retirement System (the "Board"), and upon approval of such resolution by the Board, become subject to the Public Employees' Medical and Hospital Care Act (the "Act"); and

WHEREAS, (2) City of Oxnard is a contracting agency eligible to be subject to the Act under Government Code Section 22920; and

WHEREAS, (3) Government Code Section 22892(a) provides that a contracting agency subject to the Act shall fix the amount of the employer contribution by resolution; and

WHEREAS, (4) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; and

WHEREAS, (5) City of Oxnard desires to obtain for its employees and annuitants who are members of **NonPERS Elected Officials** the benefit of the Act and to accept the liabilities and obligations of an employer under the Act; now, therefore, be it

RESOLVED, (a) City of Oxnard elects to be subject to the provisions of the Act; and be it further

RESOLVED, (b) That the employer contribution for each employee or annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of the PEMHCA Minimum per month, plUs administration fees and Contingency Reserve Fund assessments; and be it further

RESOLVED, (c) City of Oxnard has fully complied with any and all applicable

provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further

RESOLVED, (d) That the participation of the employees and annuitants of City of Oxnard shall be subject to determination of its status as a "agency or instrumentality of the state or political subdivision of a State" that is eligible to participate in a government plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that the City of Oxnard would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer; and be it further

RESOLVED, (e) That the executive body appoint and direct, and it does hereby appoint and direct, the Human Resources Director to file with the Board a verified copy of this resolution, and to perform on behalf of City of Oxnard all functions required of it under the Act; and be it further

RESOLVED, (f) That coverage on the Act be effective on April 1, 2025

NOW, THEREFORE, the City Council of the City of Oxnard resolves.

PASSED AND ADOPTED this _____ day of _____, 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Luis Mc Arthur, Mayor

ATTEST:

_____
Lourdes A. López, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.8

DATE: February 18, 2025

TO: City Council

FROM: Brenda Lopez, Interim Housing Director, (805) 385-8092, brenda.lopez@oxnard.org

SUBJECT: Community Development Block Grant (CDBG) Loan Agreement for Casa Aliento.

RECOMMENDATION

That the City Council adopt a resolution authorizing the Housing Director or Designee to execute a $792,999 CDBG Loan Agreement (32500402), and any and all related documents thereto, with Casa Aliento LP for the rehabilitation and conversion of an existing motel into 70 Permanent Supportive Housing Units located at 1245 N. Oxnard Boulevard.

(The Community Services, Public Safety, Housing & Development Committee approved 3-0 on January 28, 2025.)

BACKGROUND

The Casa Aliento project, located at 1245 N. Oxnard Boulevard, was the original location of the 70-room Vagabond Inn motel and Denny's restaurant. In 2020, Community Development Partners (CDP), an experienced developer of affordable housing, and Mercy House, a homeless services provider, partnered with the County of Ventura to submit a Homekey application to the California Department of Housing and Community Development (HCD) and successfully secured funding to acquire the Vagabond Inn. The Homekey program is a state-funded program that provides funding to create sustainable housing for people experiencing homelessness. In compliance with Homekey funding requirements, Mercy House has been operating the former Vagabond Inn as a temporary non-congregate shelter with the end goal of rehabilitating and converting the facility into permanent supportive housing (PSH). The project will include resources and supportive services for homeless individuals, prioritizing those vulnerable to the COVID-19 public health crisis and persons living with mental disabilities.

On September 16, 2021 the Planning Division approved a zone clearance allowing the change in use to convert the 70-room motel into a PSH apartment complex.

In August 2022, the Oxnard Housing Authority awarded Casa Aliento 19 project-based vouchers and 21 project-based mainstream vouchers, for a total of 40 project-based vouchers.

On May 4, 2023 the Planning Commission approved a Major Modification to make on and off-site improvements and subdivide the existing 1.81-acre project site into two parcels via a tentative parcel map. The map separates Casa Aliento and its associated parking and open space area, consisting of 1.23 acres, from the existing Denny's restaurant and its associated parking lot, consisting of .58 acres.

On June 6, 2023, the City Council approved the tentative subdivision parcel map. On June 18, 2024 the City Council approved the final parcel map to subdivide the Casa Aliento and Denny's parcels.

Casa Aliento began construction of the first phase in October 2023. The first phase, inclusive of 32 units, was completed in August 2024. All units were leased by December 2024, and the remaining 38 units are estimated to be completed in February 2025. Once fully converted, the project will include 69 studio apartments and one 1-bedroom manager's unit (70 unit PSH), site amenities for residents, and a parking lot. CDP will complete the rehabilitation activities while Mercy

House will be the supportive services provider. In order to apply for financing to complete the rehabilitation activities at Casa Aliento, CDP and Mercy House formed Casa Aliento LP, a California limited partnership.

On January 21, 2025, the City Council approved a substantial amendment to the 2023-2024 Annual Action Plan to reallocate up to $792,999 in CDBG to the Casa Aliento project.

DISCUSSION

The original development budget for Casa Aliento was $43,358,346. In November 20024, CDP received updated cost estimates of $45,379,383. Because these additional costs were not anticipated, CDP only secured enough financing to support its original budget, resulting in a financial gap of $2,021,037. The table below provides more information on the project's current financing commitments:

Development Sources:	
Low Income Housing Tax Credits	$12,802,700
Mercy House Seller Carryback	$13,500,000
NPLH (Competitive, Noncompetitive, COSR Grant)	$9,043,715
Ventura County	$5,491,298
Developer and General Partner Equity	$1,000,200
Deferred Developer Fee	$1,520,433
Total Sources	$43,358,346

To address the financial gap, Casa Aliento LP is in the process of securing an additional $1,228,038 bridge loan from the Housing Trust Fund Ventura County (HTFVC). In addition, Casa Aliento LP has requested $792,999 in Community Development Block Grant (CDBG) program funds from the City to assist in closing the gap and complete the development. CDBG is a federally funded program that provides annual grants on a formula basis to the City of Oxnard in an effort to increase affordable housing opportunities, create a suitable living environment and expand economic opportunities for low- and moderate-income persons.

On January 21, 2025, City Council approved an amount not to exceed $792,999 in Community Development Block Grant (CDBG) funding to support the project. Therefore, staff seeks approval to execute a CDBG Loan Agreement with Casa Aliento LP in an amount not to exceed $ 792,999.

The Loan Agreement provides the following terms:

1. 3% simple interest;
2. A fifty-five year term;
3. Regulatory agreement term of five-years; and
4. Repayment of the City Loan will be on a residual receipt's basis.

The use of CDBG funds requires all units remain affordable for five-years and serve households experiencing homelessness. These requirements will be memorialized by the execution and recordation of a regulatory agreement. The project's other financing, namely the Homekey Program, will require the project to remain affordable for fifty-five years (the affordability terms run concurrently) while also serving households experiencing homelessness.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

There is no financial impact to the General Fund for adoption of this recommendation. The Housing Department has existing CDBG (Fund 201) appropriations necessary to fund the agreement, pending City Council approval of the 2nd Substantial Amendment to the Fiscal Year 2023-2024 Annual Action Plan scheduled on January 21, 2025.

For Finance Use Only: $792,999 - CDBG Fund 2018105-53600, Project# TBD - Housing Assistance Loan Grant.

COMMITTEE OUTCOME

The Community Services, Public Safety, Housing & Development Committee approved 3-0 on 01/28/25 to approve the staff recommendation and to forward the item for Council approval. As requested by the Committee, the following criteria establishes how individuals are prioritized for shelter and housing programs by the Ventura County Continuum of Care: The Vulnerability Assessment Tool is one of the prioritization criteria in determining housing placement. The following criteria is used to prioritize placement, with the first three serving as the primary methods of ranking: 1- Homeless Status (chronic, literal, at risk, fleeing domestic violence), 2- Vulnerability Assessment Tool Score, 3- Length of Time Homeless, 4-Severity of Service Needs, and 5-Date of Vulnerability Assessment Tool.

Prepared by: Brenda Lopez, Interim Housing Director

ATTACHMENTS

1. Resolution 02.10.2025
2. Loan Agreement, Promissory Note, Deed of Trust and Regulatory Agreement 02.10.2025

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AUTHORIZING THE HOUSING DIRECTOR OR DESIGNEE TO EXECUTE A CDBG LOAN AGREEMENT AND COMPANION NECESSARY DOCUMENTS WITH CASA ALIENTO LP FOR THE CASA ALIENTO PROJECT

WHEREAS, The Housing Department is requesting authorization to enter into and execute a CDBG Loan Agreement, and companion necessary documents related to the Loan Agreement, with Casa Alineto LP, a California limited partnership ("Casa Aliento LP"), (as the Project sponsor) in the amount of Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999) (the "City Loan Agreement") to develop sixty-nine (69) units of permanent supportive rental housing and one (1) manager's unit at 1245 N. Oxnard Boulevard ("Project") in the City which will provide increased affordable housing opportunities in the City; and

WHEREAS, the Loan Documents will provide the following terms for the City Loan (the "City Loan Terms"): (a) 3% simple interest; (b) loan agreement term of fifty-five years after issuance of a Notice to Completion for the Project; and (c) regulatory agreement term of five years; and (d) repayment of the City Loan will be on a residual receipts basis.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OXNARD:

SECTION 1. The above Recitals are hereby incorporated into the operative provisions of this Resolution.

SECTION 2. The City's Housing Director or Designee is authorized to enter into and execute the City Loan Agreement, and any necessary amendments thereto, in the amount of $792,999 with the Casa Aliento LP.

SECTION 3. The City Loan Agreement terms will be as follows: (a) 3% simple interest; (b) loan and agreement term of fifty-five years after issuance of a Notice of Completion for the Project; (c) regulatory agreement term of five years; and (d) repayment of the City Loan will be on a residual receipts basis.

SECTION 4. The Housing Director or Designee is authorized to execute any other form of document required by any lender, investor, regulator or other third party involved in the transaction, so long as the Housing Director or Designee, in coordination with the City Attorney, determines that the substance of such document(s) does not materially conflict with the substance and intent of this Resolution.

SECTION 5. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Oxnard on this ___ day of _____, 2025:

I hereby certify that the foregoing is a true copy of the Resolution adopted by the City Council of the City of Oxnard at a meeting held on the ____ day of _____, 2025 and carried by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Luis Mc Arthur, Mayor

ATTEST:

_____
Lourdes A. López, City Clerk

APPROVED AS TO FORM:

_____
Stephen Fischer, City Attorney

SUBRECIPIENT AGREEMENT FOR CDBG GRANT FUNDS BETWEEN THE CITY OF OXNARD AND ETTING ROAD LLC FOR REHABILITATION COSTS IN SUPPORT OF AFFORDABLE HOUSING DEVELOPMENT IN THE CITY OF OXNARD

This SUBRECIPIENT AGREEMENT FOR CDBG GRANT FUNDS ("Agreement" or "CDBG Subrecipient Agreement") is made and entered into on _____, 2025, by and between the City of Oxnard, a municipal corporation ("City" or "Recipient"), and Casa Aliento LP, a California limited partnership ("Subrecipient"), jointly referred to herein as the "Parties."

WITNESSETH

WHEREAS, the City is a Participating Jurisdiction in the funding programs of the federal Department of Housing and Urban Development ("HUD"), and has received funds from HUD pursuant to the Community Development Block Grant program ("CDBG Program") to be used pursuant to applicable federal regulations (24 CFR Part 570); and

WHEREAS, Subrecipient owns that certain real property located at 1245 N. Oxnard Blvd., Oxnard, California 93030, as more particularly described in **Exhibit A** (the "Property") upon which Subrecipient intends to rehabilitate and convert an existing motel into sixty-nine (69) units of permanent supportive rental housing for persons experiencing homelessness or who are at-risk of homelessness and one (1) manager's unit ("Project); and

WHEREAS, the City has approved CDBG funding in the amount of Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999) for the purpose of assisting the Subrecipient with the costs of rehabilitation work related to Subrecipient's development of the Project (the "Work"); and

WHEREAS, this CDBG Subrecipient Agreement sets forth the benefits, entitlements, obligations and responsibilities bestowed upon and agreed to by the Subrecipient in exchange for receiving and using the $792,999 in CDBG Program funds to be used for the Work as described herein; and

WHEREAS, Subrecipient is a "subrecipient" as defined in the Code of Federal Regulations at 24 CFR 570.500(c) and is eligible to perform the Work; and

WHEREAS, according to federal regulations 24 CFR 570.503, before disbursing any CDBG funds to a subrecipient, a written agreement shall be signed by the Recipient and Subrecipient; and

WHEREAS, this CDBG Subrecipient Agreement sets forth the responsibilities of the Recipient and the Subrecipient in accomplishing the objectives of the CDBG Program pursuant to the Housing and Community Development Act of 1974 (the Act), as amended; and

WHEREAS, pursuant to 24 CFR 200, 24 CFR 570.500(c) and 24 CFR 570.501(b), the Recipient may provide CDBG funds to public or private nonprofit agencies, authorities or organizations, or for-profit entities authorized under 24 CFR 570.201(o) (referred to collectively and individually as "subrecipients") to be used by the subrecipients to provide/perform certain eligible services and activities in connection with the Recipient's desire to develop viable urban communities, through community development activities, as specified in 24 CFR 570.200 and 570.202 (a); and

WHEREAS, Recipient agrees to fund the Work activities of the Subrecipient, and the Subrecipient agrees to perform the Work activities hereinafter described in **Exhibit B** – Statement of Work, during the Term of this CDBG Subrecipient Agreement, and otherwise subject to the covenants and conditions hereinafter set forth.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

I. Statement of Work

A. Activity Description

The Subrecipient agrees to perform during the Term of this CDBG Subrecipient Agreement, all CDBG-eligible activities, tasks, obligations, and projects set forth in the Statement of Work attached to this CDBG Subrecipient Agreement as **Exhibit B** and incorporated into this CDBG Subrecipient Agreement by this reference.

The Subrecipient and the City have executed the City of Oxnard CDBG Regulatory Agreement and Restrictive Covenants ("CDBG Covenants") concurrently with this CDBG Subrecipient Agreement. The CDBG Covenants establish a five (5) year compliance period for the Project. During the five (5) year CDBG Covenants compliance period, the Subrecipient shall operate and maintain the Project's site development in conformance with the CDBG Covenants and with the requirements of this CDBG Subrecipient Agreement. In case of a conflict between the CDBG Covenants and this CDBG Subrecipient Agreement, the more restrictive covenants, standards, and/or requirements shall apply.

The Statement of Work includes a description of the Work, tasks to be performed, a schedule and a budget for the Work. The Subrecipient may request a modification of the Work activities, tasks, schedule or budget in writing to the Recipient. The Recipient shall review each request to modify the activities, tasks, schedule, or budget on a case-by-case basis and will respond to the Subrecipient within thirty (30) calendar days of the request.

B. National Objectives

All activities and projects funded with CDBG funds must meet one of the CDBG Program's National Objectives: (1) to primarily benefit low- and moderate-income persons; (2) to aid in the prevention or elimination of slums or blight; or (3) to meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

C. Level of Accomplishment – Goals and Performance Measures

The Subrecipient certifies that the Work carried out pursuant to this CDBG Subrecipient Agreement will meet the CDBG Program national objective of primarily benefitting low- and moderate-income persons (income eligible persons or households). It is intended for the CDBG funds to be used to fund the costs of rehabilitation work in furtherance of Subrecipient's development of the Project. CDBG Program effectiveness is measured through an on-going evaluation of activities, and the Subrecipient agrees to perform the Work according to the goals set forth in **Exhibit B**.

D. Staffing

Any changes in key personnel assigned or their general responsibilities during the performance of the Work, as described in **Exhibit B**, must be reported to the Recipient.

E. Performance Monitoring

The Recipient will monitor the Subrecipient's performance against goals and performance standards, as stated above. Substandard performance, as determined by the Recipient, will constitute noncompliance with this CDBG Subrecipient Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Recipient, Agreement suspension and/or termination procedures (*i.e.*, default proceedings) will be initiated by the Recipient.

Activities, tasks, schedule, and reporting requirements related to the Work are described in Section 21 (Records and Reports) and in **Exhibit B**, Sections 2 and 3. In the event that the Work will not be completed as scheduled, the Subrecipient shall notify the Recipient of the completion deficiencies and that said deficiencies shall be corrected within forty-five (45) calendar days. Failure of the Subrecipient to correct the deficiencies within forty-five (45) calendar days will require the Recipient to schedule a Work Review Conference pursuant to Section 8 (Work Review Conference).

The Recipient will use the Subrecipient's performance reports to monitor the performance of activities and delivery of services under this CDBG Subrecipient Agreement. In addition, the Recipient's representative may visit the Subrecipient's offices to inspect the records required by

HUD to be maintained in order to document the CDBG-funded activities, services and expenditures. These records include copies of the original source documentation that tracks the performance of the rehabilitation activities, documents the on-going provision of affordable housing to low- and moderate-income persons / households, demonstrates that the program clients are eligible to receive HUD-funded services, and verifies that funds were expended to perform the activities described in item 1.A., "Activity Description," above.

On-Going Project Operation tasks, schedule and reporting requirements related to the five (5) year compliance period are described in **Exhibit B**, Section 4 (On-Going Project Operation) and in the CDBG Regulatory Agreement. Deficiencies in the Subrecipient's performance and/or of Project compliance, as determined by the Recipient at its sole discretion, may cause the Recipient to implement a thirty (30) day notice and cure period.

II. Payment for Activities and Services

The Recipient shall reimburse the Subrecipient for the activities and services performed by the Subrecipient pursuant to the Scope of Work in **Exhibit B** and in accordance with the conditions and terms set forth in the "Schedule of Compensation" attached hereto as **Exhibit C**. The compensation shall be paid at the time and manner set forth in **Exhibit C**. The Reimbursement Amount shall constitute reimbursement only for allowable costs incurred as a result of the Work activities. The Parties understand and agree that reimbursement of Work costs shall be conditioned upon the Recipient's receipt of CDBG Program funds from the federal government, as set forth in Section 3 (Availability of Funds), or accumulation of CDBG Program Income, as set forth in Section 18 (Program Income), and as a result of this CDBG Subrecipient Agreement, and shall not be a charge on any other funds of the Recipient. Recipient represents that it currently has Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999) from the designated sources set aside and will continue to keep such funds set aside to fully reimburse Subrecipient pursuant to the terms of this Agreement.

All requests for reimbursement shall be submitted as per Section 17 (Fiscal Control) for costs incurred under this CDBG Subrecipient Agreement, along with one (1) set of copies of original source documentation supporting the expenditures by the Subrecipient for the Work identified in **Exhibit B** – Statement of Work, which shall be submitted to the Recipient in such form acceptable to the Recipient in its sole and absolute discretion. Such documentation shall be submitted prior to any payment, in whole or in part, by the Subrecipient of the Reimbursement Amount.

III. Availability of Funds/Modifications

The Recipient's provision of funding to the Subrecipient pursuant to this CDBG Subrecipient Agreement is contingent on the availability of CDBG funds and continued federal authorization for CDBG program activities, and is subject to amendment or termination due to lack of funds or authorization. Recipient represents that it currently has Seven Hundred and

Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999) from the designated sources set aside and will continue to keep such funds set aside to fully reimburse Subrecipient pursuant to the terms of this Agreement. This CDBG Subrecipient Agreement is subject to written modification and termination as necessary by Recipient in accordance with requirements contained in any future Federal legislation, regulations or Recipient policy. All other modifications must be in written form and approved by both Parties.

IV. Obligation of Funds

The Subrecipient shall not obligate any funds, incur any costs, or initiate identified project(s), which are the subject of this CDBG Subrecipient Agreement, until all environmental review has been completed and certified by Recipient and Recipient has issued a written "Environmental Assessment" form or has received from HUD an "Authorization to Obligate Funds and Incur Costs."

V. Term of Agreement

The Term of this Agreement shall commence on the date written above and, unless sooner terminated as hereinafter provided, shall terminate fifty-five (55) years from the recordation of a notice of completion issued for the Project. At the conclusion of the Term of this Agreement, all unpaid principal and interest are due and payable pursuant to the CDBG Note.

VI. Time for Performance

The Subrecipient shall not perform any work under this CDBG Subrecipient Agreement until Recipient gives the Subrecipient a written approval (which shall serve as an Authorization to obligate funds and incur costs). All activities and services required of the Subrecipient under this CDBG Subrecipient Agreement shall be completed as established in Section VII of this CDBG Subrecipient Agreement.

VII. Timely Completion and Expenditure

Timely completion of the Work is the highest priority of this CDBG Subrecipient Agreement. To ensure timely completion and expenditures, the Subrecipient will demonstrate reasonable progress by:

A. No earlier than January 21, 2025 the Subrecipient shall commence Work activities as described in **Exhibit B**. This commencement date may be amended only with prior written approval by the Housing Director or Designee in conformance with Section 8 (Work Review Conference).

B. No later than June 30, 2025, the Subrecipient shall complete all Work activities as described in **Exhibit B**. This completion schedule may be extended only with prior written approval by the City in conformance with Section 8 (Work Review Conference) but shall in no event be extended beyond December 31, 2025. $792,999 in CDBG funds authorized under this CDBG Subrecipient Agreement must be expended by Subrecipient **by no later than April 21, 2025**. Additionally, all requests for reimbursements along with documentation to support expenditures being reimbursed with CDBG funds must be submitted by Subrecipient to City staff **by no later than April 21, 2025**. Failure to meet the April 21, 2025 expenditure and supporting documentation deadline, may result in a loss of any undisbursed CDBG funds.

Failure to meet established performance goals and standards and/or noncompliance with applicable rules and regulations shall constitute non-compliance with the terms of this Agreement. If the Recipient, in its sole discretion, determines that the Subrecipient fails to meet the performance goals and standards of this CDBG Subrecipient Agreement then pursuant to Section 8 (Work Review Conference) the Recipient may schedule a Work Review Conference and require the Subrecipient to promptly develop and submit a remediation plan to the Recipient for review and approval.

VIII. Work Review Conference:

In the event that quarterly reports required by Section 21 (Records and Reports) indicate the CDBG Program funds will not be expended by April 21, 2025, and/or that the Work as described in **Exhibit B** will not be completed by June 30, 2025, the Subrecipient will notify the Recipient of the completion deficiencies and correct the deficiencies within forty-five (45) calendar days. Failure of the Subrecipient to correct the deficiencies within forty-five (45) calendar days will require the Recipient to schedule a Work Review Conference.

The Work Review Conference will serve to identify reasons for delayed performances and weaknesses. Based on the Work Review Conference discussions, both the Recipient and the Subrecipient will generate a remediation plan that may include but is not limited to re-design of the Work, amendments to the Work activities, extending the term of the Work activities, or re-allocation of the funds to another eligible CDBG project. Approval of said remediation plan shall be at the reasonable discretion of the City and shall be in conformance with all applicable CDBG Program and HUD regulations.

Failure to comply with this remediation plan and/or this CDBG Subrecipient Agreement will trigger administrative requirements in accordance with 2 CFR Part 200.338 and 2 CFR Part 200.305(b) (6). In addition, such failure shall constitute an event of default under the CDBG Deed of Trust and CDBG Note.

IX. Compensation and Method of Payment

For performance of the Work activities described in **Exhibit B**, the Recipient shall

reimburse the Subrecipient an amount not to exceed Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999) ("Reimbursement Amount"), which shall constitute full and complete compensation hereunder for the Work activities. The Reimbursement Amount will only be paid if reimbursable from the federal government under the Housing and Community Development Act of 1974 for the amount indicated above, or from CDBG program income, as described in 24 CFR 570.500(a), and accumulated as a result of this Agreement. The Reimbursement Amount shall constitute reimbursement only for allowable costs incurred as a result of the Work activities described in **Exhibit B**.

The Parties understand and agree that such reimbursement, if any, shall be conditioned upon the Recipient's receipt of CDBG program funds from the federal government or accumulation of CDBG program income, as set forth in Section 18 (Program Income) and as a result of this Agreement, and shall not be a charge on any other funds of the Recipient. The Subrecipient shall use the Payment Request Form (**Exhibit D** of this Agreement) for reimbursement purposes.

All reimbursement requests shall be submitted via the Request for Payment Form supporting the invoice for costs incurred under this Agreement, along with one (1) set of copies of all original source documentation supporting the expenditures by the Subrecipient for the Work activities, which shall be submitted to the Recipient in such form acceptable to the Recipient in its sole and absolute discretion. Such supporting documentation shall be submitted prior to any payment, in whole or in part, by the Recipient of the Reimbursement Amount.

X. Designated Representative

A. The Recipient's representative is as follows:

Name and Title: City of Oxnard

Address:

Housing Department
435 S D Street
Oxnard, CA 93030
Attention: Housing Director

B. The Subrecipient's representative(s), who shall be responsible for job performance, negotiations, contractual matters, and coordination with the Recipient Representative is as follows:

Name and title: Casa Aliento LP

Address: 3416 Via Oporto, Suite 301
Newport Beach, CA 92663

The Subrecipient's professional services shall be actually performed by, or shall be immediately supervised by, the Subrecipient's representative.

C. Any party may change such address(es) given above by providing notice in writing to the other parties, and thereafter notices shall be transmitted to the new address(es).

XI. Assurances

The Subrecipient hereby assures and certifies that it has complied with the Housing and Community Development Act, applicable regulations, policies, guidelines and requirements, 2 CFR Part 225, as amended and that it will comply with all applicable Federal, State and local laws and regulations as they relate to acceptance and use of Federal funds for this Federally-assisted program. Also, the Subrecipient represents and warrants with respect to the Statement of Work specified in **Exhibit B** of this Agreement, that it will comply with all of the provisions of 24 CFR Part 570, as applicable. The Subrecipient further represents and warrants that it will comply with any further amendments or changes to said required assurances and certifications, and that during the term of this Agreement it will maintain current copies of said assurances and certifications at the address of the Subrecipient's representative, as provided in Section 10 (Designated Representative).

XII. Compliance

The Subrecipient agrees that it hereby undertakes the same obligations to Recipient that Recipient has undertaken to HUD pursuant to Recipient's CDBG application and certifications. The obligations undertaken by the Subrecipient include, but are not limited to, the obligation to comply with all federal laws and regulations described in Subpart K of 24 CFR Part 570 and specifically with each of the following:

A. The Housing and Community Development Act of 1974 (Public Law 93-383) as amended, and legislative changes contained in the Housing and Urban-Rural Recovery Act of 1983; and the Housing and Community Development Act of 1987, plus all succeeding revisions and amendments to these Acts.

B. Final regulations of the Department of Housing and Urban Development relating to Community Development Block Grants (Title 24, Chapter V, Part 570 of the Code of Federal Regulations commencing with Section 570.1) dated September 6, 1988; and revisions to 24 CFR Part 570 at Subpart J entitled "Grant Administration" and dated March 11, 1988, plus all succeeding revisions and amendments to these regulations.

C. Land Covenants. This CDBG Subrecipient Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Recipient and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

D. Regulations of the Department of Housing and Urban Development relating to environmental review procedures for the Community Block Grant program (Title 24, Subtitle A, Part 58 of the Code of Federal Regulations, commencing at Section 58.1) except that the Subrecipient does not assume Recipient's environmental responsibilities as described in 24 CFR Part 570.604.

E. Environmental Mitigation: The Subrecipient shall implement and monitor all Project mitigation measures approved in the Project's National Environmental Policy Act (NEPA) document prepared by the Recipient. The staff responsible for implementing and monitoring mitigation measures shall be clearly identified in the Project construction plan(s).

F. Title VI of the Civil Rights Act of 1964 (Public Law 88-352) as amended; Title VIII of the Civil Rights Act of 1968 (Public Law 90-284) (affirmatively furthering fair housing) as amended; Section 104(b) and 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 3 of the Housing and Urban Development Act of 1968 (employment priorities for new hires); 12 U.S.C. 1701u (Economic opportunities for low- and very low-income persons); Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11246 as amended by Executive Order 11375 and 12086; Executive Order 11063 as amended by Executive Order 12259; and HUD regulations heretofore issued or to be issued to implement these authorities relating to civil rights, and pursuant to 24 CFR 570.904(d) and 2 CFR Part 200.321:

1. Contracting with Small and Women and Minority Owned Businesses (W/MBE) (2 CFR 200.321). The Subrecipient will take all necessary affirmative steps to assure that minority owned and/or women owned business enterprises and labor area surplus firms are used when possible. Such firms and businesses have 50% or more ownership by an ethnic minority person(s) and/or by woman/women. All construction projects receiving HUD funds and all contractors and subcontractors who receive $10,000 or more in HUD funds shall fulfill these hiring requirements. These steps are in addition to full and open competition and must include, at a minimum, the following six affirmative steps:

a) Solicitation Lists. Subrecipient must place small and minority businesses and women's business enterprises on solicitation lists (2 CFR 200.321(b)(1);

b) Solicitation. The Subrecipient must assure that it solicits small and minority businesses and women's business enterprises whenever they are potential sources (2 CFR 200.321(b)(2);

c) Dividing Requirements. Subrecipient must divide total requirements when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises (2 CFR 200.321(b)(3);

d) Delivery Schedules. The Subrecipient must establish delivery schedules where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises (2 CFR 200.321(b)(4);

e) Obtaining Services and Assistance. The Subrecipient must use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce (2 CFR 200.321(b)(5); and

f) Prime Contractor Requirements. The Subrecipient must require the prime contractor, if subcontractors are anticipated or let, to take the five affirmative steps as described in (a) through (e) above (2 CFR 200.321(b)(6).

G. Economic Opportunities for Low- and Very Low-Income Persons (24 CFR Part 135) Non-Public Housing Authority entities that obligate or commit to spend over $200,000, or any individual contractor or subcontractor that receives $100,000 of covered funds on projects involving housing construction, demolition, rehabilitation, or other public construction is required to comply with Section 3 of the Housing and Urban Development Act of 1968, hereinafter referred to as "Section 3 (HUD)".

The purpose of the Section 3 (HUD) is to ensure that employment and other economic opportunities generated by the U.S. Department of Housing and Urban Development (HUD) assistance or HUD assisted project covered by Section 3 (HUD), shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The Subrecipient shall insure that all Section 3 (HUD) covered contracts (where $100,000 or more in HUD funds are used to reimburse a contractor or subcontractor for work) shall include the following clause:

1. The work to be performed under this CDBG Subrecipient Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u and the implementing regulations at 24 CFR 135 (Economic Opportunities for Low-And Very Low-Income Persons). The purpose of Section 3 (HUD) is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 (HUD), shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. As evidenced by its execution of this Agreement, the Subrecipient certifies that it is under no contractual or other impediment that would prevent it from complying with the part 135 regulations.

3. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 (HUD) clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall contain the Section 3 (HUD) preference, shall set forth: (1) the minimum number and job titles subject to hire; (2) availability of apprenticeship and training positions; (3) the qualifications for each, and the name and location of the person(s) taking applications for each of the positions; and (4) the anticipated date the work shall begin.

4. The Contractor agrees to require this Section 3 (HUD) clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 (HUD) clause, upon a finding that a subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor shall not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

5. By its signature to this Agreement, the Contractor will certifies that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.

6. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.

H. The Labor Standards Regulations set forth in Section 570.603 of 24 CFR Part 570; and HUD Handbook 1344.1. If this Agreement involves construction or facility improvements exceeding $2,000 awarded by the Recipient, the Subrecipient agrees to comply with:

Prevailing Wages: Requirements of the Secretary of Labor in accordance with the Davis-Bacon Act (40 USC 276a to 276 a-7) as supplemented in the Department of Labor regulations (29 CFR Part 5) applies. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the prevailing wage rates determined to be applicable to this contract by the Director of the California Department of Industrial Relations for similar classifications of labor, the Subrecipient and its contractor and subcontractors shall pay not less than the higher wage rate.

The Subrecipient agrees that, except with respect to the rehabilitation of residential property designed for residential use for less than eight (8) households, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the Recipient pertaining to such contract, and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 3, 1, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph, for such contracts in excess of $10,000.00.

Copeland Anti-Kickback Act: During the performance of this Agreement, the Subrecipient and its contractors and subcontractors agree to comply with the Copeland Anti-Kickback Act (18 USC 874) as supplemented in the Department of Labor regulations (29 CFR Part 3). This act provides that the Subrecipient, its contractor and subcontractors shall be prohibited from inducing any person employed in the construction, completion, or repair of public facilities to give up any part of the compensation which they are otherwise entitled.

The Subrecipient, its contractor and subcontractors shall maintain documentation that demonstrates compliance with hour and wages requirements of this part. Such documentation shall be made available to the Recipient for review upon request. The Subrecipient's contractor and subcontractors agree to include a provision requiring such compliance in its lower tier covered contracts and transactions.

Agreements exceeding $100,000 that involve the employment of mechanics or laborers shall comply with the following:

Contract Work Hours and Safety Standards Act: Where applicable, during the performance of this Agreement, all contracts awarded by the Subrecipient, the prime contractor and subcontractors in excess of $2,000 for construction contracts and in excess of $100,000 are required, pursuant to the Contract Work Hours and Safety Standards Act, to apply the four clauses below. These clauses shall be inserted in addition to the clauses required by 29 CFR Part 5.5(a) or 29 CFR Part 4.6. As used in this section, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in Section 1 above , the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.

3. Withholding for unpaid wages and liquidated damages. The Recipient shall upon its own action or upon written request of an authorized representative of the U.S. Department of Housing and Urban Development (HUD) or the U.S. Department of Labor (DOL) withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in Section 2 above.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in Sections 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Section 1 through 4 of this section.

Bonding Requirements. For construction or facility improvements contracts or subcontracts exceeding the Simplified Acquisition Threshold ($150,000) the Recipient may accept the bonding policy and requirements of the Subrecipient provided that the Recipient has made a determination that the CDBG funds are adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

a) Bid Guarantee. At the submission of a bid to the Subrecipient, the contractor shall furnish a "bid" guarantee equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

I. Equal Employment Opportunity. During the performance of this Agreement, the Subrecipient agrees it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, and hereby promises to comply with the provisions on contractor agreements contained in Presidential Executive Order #11246 as amended by Executive Order 11375 and as approved by the Department of Labor Relations (41 CFR Part 61).

J. CFR Part 200 entitled Uniform Administrative Requirements Cost Principles and Audit Requirements for Federal Awards, Administrative regulations, including, but not limited to, applicable Sections of Department of Housing and Urban Development regulations located at: 24 CFR 92.505 – Uniform Administrative Requirements. Pursuant to 24 CFR 92.505, the Subrecipient will comply with the requirements of 2 CFR part 200, except that the following provisions shall not apply: §§ 200.306, 200.307, 200.308 (not applicable to participating jurisdictions), 200.311 (except as provided in § 92.257), 200.312, 200.329, 200.333, and 200.334. The provisions of 2 CFR 200.305 apply as modified by § 92.502(c). If there is a conflict between definitions in 2 CFR part 200 and 24 CFR part 570, the definitions in 24 CFR part 570 shall govern.

K. The following laws and regulations relating to preservation of historic places: Public Law 89-665 the Archaeological and Historical Preservation Act of 1974 (Public Law 93-291), and Executive Order 11593 including the procedures prescribed by Advisory Council on Historic Preservations in 36 Code of Federal Regulations, Part 800.

L. The Architectural Barriers Act of 1968 (42 U.S.C. Section 4151 and the Americans with Disabilities Act of 1990 (ADA).

M. The Hatch Act relating to the conduct of political activities (Chapter 15 of Title 5, U.S.C.).

N. The Flood Disaster Protection Act of 1973 (Public Law 93-234 and the regulations adopted pursuant thereto) Section 202(a) and the regulations in 44 CFR parts 59 through 79.

O. The Clean Air Act (42 U.S.C. Chapter 85) and the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1251 et seq.) and the regulations adopted pursuant thereto.

P. Executive Order 12372, which requires State Clearinghouse review and comment of any CDBG project for the planning, construction, reconstruction, and/or installation of water or sewer facilities.

Q. Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831 (b)).

R. Debarment and Suspension. An agreement or contract must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM) database, in accordance with 2 CFR 180 that implements Executive Orders 12549 and 12689, "Debarment and Suspension." Provision of 24 CFR Part 570.609, and 24 CFR 5.105(c) for procurement activities regarding use of debarred, suspended, or ineligible contractors or subcontractors and 24 CFR Part 24 for non-procurement activities, regarding use of debarred, suspended, or ineligible contractors or subcontractors. This Agreement is a covered transaction for purposes of 2 CFR 180 and 2 CFR 3000. As such the Subrecipient is required to verify with the Recipient that the Subrecipient, its contractors, subcontractors, its principles (defined at 2 CFR 180.940), or its affiliates (defined at 2 CFR 180.905) are excluded (defined at 2 CFR 180.940) or disqualified (defined at 2 CFR 180.935).

The Subrecipient must comply with 2 CFR 180, subpart C and 2 CFR 3000, subpart C during the term of this Agreement and any other contract that may arise as a result of this agreement. Subrecipient must include a provision requiring such compliance in its lower tier covered contracts and transactions.

If it is later determined that the Subrecipient did not comply with 2 CFR 1800, Subpart C and 2 CFR 3000, subpart C, in addition to remedies available to the Recipient and the Federal Government, may pursue available remedies, including but not limited to suspension and/or debarment.

Contractors excluded, disqualified or otherwise ineligible (e.g., suspension, debarment, or limited denial of participation) for Federal procurement and non-procurement programs per 24 CFR 570.609 shall not be considered for contract award. This applies to any CDBG-assisted contracts for the procurement of goods and services, professional services, public services, and construction activities (prime and sub-prime contractors).

The Subrecipient shall work with the Recipient to verify eligibility for all contractors and subcontractors, its principles or its affiliates are not excluded or disqualified subject to procurement requirements prior to contract award by the Subrecipient. The Subrecipient shall not use a self-certification letter or form signed by the contractor as a substitute for evidence of their eligibility status.

To verify and document a contractor's eligibility the Subrecipient shall check the General Services Administration System for Award Management site (https://www.sam.gov/portal/SAM/#1#1) to assure the contractor's eligibility and shall submit the verification(s) to the Recipient prior to the notification and award of the contract. The Subrecipient shall retain a copy of the verification(s) for their file to verify results for each contractor.

The Subrecipient further agrees to comply with any environmental, procurement, construction, and other guidelines provided by Recipient. All local code regulations must be recognized and services provided must conform to the said standards.

S. Reporting. The Subrecipient also agrees to submit an annual performance and evaluation report no later than 30 days after the completion of the most recent program year showing the status of all activities as of the end of the program year. The purpose of the performance and evaluation report is to assist the Recipient in complying with its reporting obligations under 24 Code of Federal Regulations section 570.507(a) and under 24 Code of Federal Regulations Part 91. The Recipient shall specify the content and format of this report.

T. Rights to Inventions. Per 2 CFR Appendix II to Part 200(F), if the use of CDBG award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the Agreement includes the performance of experimental, developmental, or research work, the Subrecipient must provide for the rights of the Federal Government and the Recipient in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within in the 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

The regulation at 37 C.F.R. § 401.2(a) currently defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

U. Clean Air Act and the Federal Water Pollution Control Act. If this Agreement involves construction or facility improvements and exceeds $150,000 the following provision is applicable. The Subrecipient shall comply with all applicable standards, orders, or regulations issued under Section 306 of the Clean Air Act (42 USC 7401 – 7671q), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and EPA regulations (40 CFR Part 15), which prohibit the use under nonexempt federal contracts, grants, or loans of facilities included in the EPA List of Violating Facilities. Violations will be reported to the US EPA Administrator for Enforcement (EN-329).

By execution of this Agreement, the Subrecipient, its contractor and subcontractors will be deemed to have stipulated as follows:

1. The Subrecipient, its contractor and subcontractors hereby declare that no person who will be utilized in the performance of this contract has a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act which prohibits them from perform work on a federally funded project.

2. During the performance of this contract, the Subrecipient, its contractor and/or subcontractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q), and the Federal Water Pollution Control Act as amended (33 USC 1251-1387). Violations must be reported to the EPA.

3. That any facility that is or will be utilized in the performance of this Agreement, unless the Agreement is exempt under the Clean Air Act, as amended (42 USC 7401 – 7671q et seq., as amended by Public Law 91-604), and under the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq., as amended by Public Law 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of this Agreement award, on the EPA List of Violating Facilities pursuant to 40 CFR 15.20.

4. That the Subrecipient, its contractor and subcontractors agree to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

5. That the Subrecipient, its contractor and subcontractors shall promptly notify the Recipient of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities.

6. That the Subrecipient, its contractor and subcontractors agree to include or cause to be included the requirements of this article in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

V. Procurement of Recovered Materials. During the performance of this Agreement, the Subrecipient, its contractor and subcontractors agree to comply with all of the standards, order, and requirements issued under Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 USC 6962). See 2 CFR 200, Appendix II (J), or at 2 CFR 200.322.

The Subrecipient, its contractor and subcontractors shall include the provisions of this article in all subcontracts under the Agreement.

The following provides the clause that the Subrecipient, its contractor and subcontractors can include in contracts meeting the above thresholds:

1. In the performance of this contract, the (name of contractor here) shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired:

a) Competitively within a timeframe providing for compliance with the contract performance schedule;

b) Meeting contract performance requirements; or

c) At a reasonable rice.

2. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site:

https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program

The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

W. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and regulations adopted to implement the Act in the Code of Federal Regulations, Title 24, Part 42.

X. The Subrecipient shall comply with all provisions of the Build America, Buy American Act (BABA), as applicable to this project, including but not limited to, ensuring that the construction materials used in the project are produced in the United States. This includes all iron, steel, and manufactured goods, unless an exception is authorized under the law.

XIII. Subcontracts

The Subrecipient shall incorporate the same or substantially equivalent requirements as are contained in this CDBG Subrecipient Agreement in all subcontracts which utilize any CDBG funds and/or support any CDBG program(s) covered by this CDBG Subrecipient Agreement; when program(s) utilize(s) CDBG funds and other funding sources, all funds shall be subject to CDBG regulations. The Subrecipient, by entering into any such subcontract for performance of any portion of the CDBG Program, is not relieved of its responsibilities to Recipient as set forth in this CDBG Subrecipient Agreement.

XIV. Non-Discrimination/Religious Activities

No person with responsibilities in the operation of any project under this CDBG Subrecipient Agreement will discriminate because of race, creed, color, national origin, age, sex, political affiliation, sexual orientation, gender identity, handicap, beliefs, or marital or familial status.

The Subrecipient agrees that funds provided under this CDBG Subrecipient Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

The Subrecipient will ensure that every effort is made to provide equal opportunity to every potential minority and women's business vendor, contractor and subcontractor. The Subrecipient will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

XV. Standard of Conduct/Conflict of Interest and Lobbying

No member, officer or employee of the Subrecipient or its designee or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project activities during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with the Project activities assisted under this CDBG Subrecipient Agreement.

No member, officer or agent of the Subrecipient shall participate in the selection of the award, or administration of, any Project activities or construction contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any Project activities, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this Section, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or

appointed official of the Recipient, the Subrecipient, or any designated public agency.

By entering into this CDBG Subrecipient Agreement, the Subrecipient certifies:

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant loan, or cooperative agreement in accordance with the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments, and HUD's 24 Code of Federal Regulations (CFR) 87.

Furthermore, for Agreements of $100,000 or more, subrecipient shall file the required certification in **Exhibit D**. This certification process also applies to the Subrecipient's contractor and subcontractors contracts, of $100,000 or more, who must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 USC 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.

B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form LL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and other federal disclosure forms as requested.

C. The Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

D. Mandatory Disclosures. The Subrecipient must disclose, in a timely manner, in writing to the Recipient all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially effecting the Federal award described in 2 CFR 200.113. Failure to make require disclosures can result in any of the remedies described in 2 CFR 200.338 Remedies for noncompliance, including suspension or debarment.

XVI. Use of Funds for Entertainment, Meals or Gifts

The Subrecipient represents and warrants that it will not use funds provided through the Agreement to pay for entertainment, meals or gifts.

XVII. Fiscal Control

The Subrecipient shall be responsible for the internal control and monitoring of fiscal and programmatic/operational goals and procedures. The Subrecipient shall establish such fiscal controls and fund accounting procedures as required by Federal regulations, or as may be deemed necessary by HUD and Recipient to ensure the proper disbursal of, and accounting for, funds paid to the Subrecipient under the CDBG programs.

Disbursement of Funds: CDBG funds shall generally be disbursed by Recipient to the Subrecipient on a reimbursement basis for actual expenses.

The Recipient agrees to pay the Subrecipient progress payments at the time and in the manner set forth in the Schedule of Compensation, **Exhibit C**. Payment by the Recipient is not to be construed as final in the event HUD disallows reimbursement for the Work or any portion thereof. Source documentation, as specified by the Recipient, supporting the invoice(s) shall be submitted by the Subrecipient with request for payment.

The Subrecipient shall be liable for all amounts which are determined to be due by HUD including, but not limited to, disallowed costs which are the result of the Subrecipient's or its contractor's conduct under this CDBG Subrecipient Agreement.

The Subrecipient shall be notified in writing and shall be permitted to respond regarding any controversy or proceeding between the Recipient and HUD arising from this CDBG Subrecipient Agreement.

All financial transactions must be supported by complete and verifiable source documents. Records shall provide a clear audit trail and shall be maintained as specified in Section 22 (Agreement Responsibility for Monitoring and Records) of this CDBG Subrecipient Agreement.

XVIII. Program Income

Program Income is defined in Subpart J of 24 CFR Part 570.504 and is described as gross income received by the Subrecipient and directly generated from the use of CDBG funds.

Program income includes, but is not limited to, the following:

A. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;

B. Proceeds from the disposition of equipment purchased with CDBG funds;

C. Gross income from the use or rental of real or personal property acquired by the Subrecipient with CDBG funds, less costs incidental to generation of the income;

D. Gross income from the use or rental of real property owned by the Subrecipient that was constructed or improved with CDBG funds, less costs of the non- CDBG portion;

E. Payment of principal and interest on loans made using CDBG funds except as provided in 24 CFR Part 570.500(a)(3);

F. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;

G. Interest earned on program income pending its disposition; and

H. Funds collected through special assessments made against properties owned and occupied by households not of low or moderate income where the assessments are used to recover all or part of the CDBG programs portion of a public improvement.

During the effective Term of this CDBG Subrecipient Agreement, the Subrecipient shall report all program income as defined in 24 CFR 570.500(a), generated by activities carried out with CDBG funds under this CDBG Subrecipient Agreement. Program Income may be retained by the Subrecipient subject to the provisions of the Cooperative Agreement, the Act, and its regulations. Any program income retained must only be used for eligible activities in accordance with all CDBG requirements.

It shall be the Subrecipient's responsibility to manage and use the program income in compliance with the standards and requirements set forth in section 570.504(a) & (b) (1) through (b)(3). The transfer of CDBG funds from the Recipient to the Subrecipient shall be adjusted to reflect any program income in accordance with the principles set forth in section 570.504(b) (2) (i) and (ii). In addition, all of the provisions of this CDBG Subrecipient Agreement shall apply to the management and use of the program income.

Recipient shall monitor the use of any program income, requiring appropriate record keeping and reporting by the Subrecipient as may be needed for this purpose, and shall report the use of such program income to HUD. In the event of close-out as defined in section 570.509 of the federal regulations or change of status of the Subrecipient, (*i.e.*, from Subrecipient to entitlement), all program income on hand or received by the Subrecipient subsequent to the close-out or change of status shall be paid to the Recipient.

Program income attributable to projects funded under this CDBG Subrecipient Agreement and on hand with the Subrecipient when this CDBG Subrecipient Agreement expires, is terminated with or without cause, or received after the Agreement expiration, shall be paid to the Recipient as required by 24 CFR Part 570.503(b)(8) when the Subrecipient ceases to be under continuous Agreement with the Recipient for the operation of CDBG programs. As long as there is no break in the CDBG Subrecipient Agreement period, program income shall be governed by the provisions of this Section.

The Project shall continue to meet the CDBG program national objective per 24 CFR 570.208 as required by 24 CFR 570.503(b)(7)(i). If the Project is not used in accordance with 24 CFR 570.503(b)(7)(i) the Subrecipient shall reimburse the Recipient to comply with the requirements of 24 CFR 570.503 (b)(7)(ii).

XIX. Reversion of Assets

A. Reversion of Assets. The five (5) year period set forth in 24 CFR 570.503(b)(7) for compliance with one or more national objectives shall be included and contained within the five (5) year compliance period established by the CDBG Covenants.

B. Upon expiration of this CDBG Subrecipient Agreement, the Subrecipient shall transfer to the Recipient any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the Subrecipient's control that was acquired and/or improved in whole or in part with CDBG funds (including CDBG funds provided to the Subrecipient in the form of a loan) in excess of $25,000 shall:

1. Be used to meet one of the national objectives in 24 CFR Part 570.208 until the end of the five (5) year compliance period established by the CDBG Covenants (pursuant to Section 5.B above – Term of Agreement), or the length of time to be further prescribed by mutual agreement of the Parties.

2. Be disposed of in such manner that the Recipient is reimbursed in the amount of the fair market value of the property at the time of disposition of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition and/or improvement of such property. The payment is Program Income to the Recipient.

3. If the Subrecipient is a private non-profit organization, the Subrecipient further agrees to a voluntary lien / deed of trust on above-reference property as to any CDBG funds received and that such lien / deed of trust will be notarized and recorded in the Office of the County Recorder. The Subrecipient will utilize the lien / deed of trust form specified by the Recipient, and will be subject to provisions listed in this CDBG Subrecipient Agreement and in the CDBG Covenants.

XX. Procurement/Equipment

Equipment, which shall be defined as tangible, nonexpendable, personal property having a useful life of more than one (1) year and an acquisition cost of $1,000 or more per unit, is eligible for purchase using CDBG funds only upon prior approval of the Recipient and subject to 24 CFR Part 570.207(b)(1). Such equipment shall be used by the Subrecipient in the project for which it was acquired as long as needed, regardless of whether such project continues to be supported by Federal funds; at the time, equipment may be used in other activities currently or previously supported by a Federal agency. Use of such equipment is also subject to provisions of 24 CFR Part 200.313(c). If applicable, the Subrecipient shall also establish procedures for managing equipment, which meet the requirements of 24 CFR Part 200.313(d). Further, proceeds from disposition of such equipment shall be treated as program income as specified in Section 18 (Program Income) of this CDBG Subrecipient Agreement.

XXI. Records and Reports

The Subrecipient agrees to supply to the Recipient, on a quarterly and annual basis, any progress reports and/or other reasonable documentation as may be required by the Recipient to audit performance of the Work activities covered by this CDBG Subrecipient Agreement (and the subsequent Property operational activities) and to enable the Recipient to analyze and evaluate utilization of the CDBG funds by the Subrecipient. The Subrecipient shall maintain separate accounting and financial records for each funding (revenue) source in support of the Work.

A. Payment Request Form: Subrecipient shall submit a Payment Request Form (Exhibit “D”) and copies of the original supporting documents for payment to the Recipient.

B. Progress Reports: Progress reports for Work activities shall address project status and, if applicable, explanation of any problems/delays encountered and/or anticipated and measures to be taken to correct such problems; revised milestones including anticipated schedule for Work completion; and a summary of expenditures, obligations, program income, and drawdown to date. In addition, the Subrecipient shall provide as part of the progress report any citizen comments received during the reporting period relative to the Work, and responses to such comments, and additional information, as needed. Subrecipient shall submit such report quarterly within thirty (30) days of the close of report period including in the event that no expenditures occurred, which shall be documented in the quarterly report.

C. The Subrecipient shall use the CDBG Monitoring Checklist – Housing/Rehab., hereinafter referred to as "the Checklist," to collect and retain all Work documents to provide the Recipient for its records.

D. Completion Report: The Subrecipient shall prepare and submit to the Recipient a Completion Report within thirty (30) days of completion of Work activities covered by this CDBG Subrecipient Agreement. Said report shall consist of an overview and evaluation of the Work activities, a comparison of milestones' progress, total costs incurred, listing of files, listing of personnel, and other reasonable information requested by the Recipient. The Completion Report shall be made as part of the Quarterly Report Form.

E. Annual HUD/Recipient Reports: The Subrecipient shall submit to the Recipient in a timely manner other reports as requested/required by the Recipient for HUD compliance including, but not limited to the Contractor/Subcontractor, EEO-4, and Minority Financial Institution Reports (if applicable), the Affirmative Marketing Report, and provide, as requested by HUD and/or Recipient, information necessary to prepare the any other required reports and/or plans.

F. Audit: The Subrecipient shall be responsible for conducting an annual audit of its CDBG program in compliance with Title 2 CFR Part 200.500 – 200.520 issued pursuant to the Single Audit Act of 1984 and the Single Audit Amendments of 1996, P.L. 98-502, as applicable. A copy of said audit shall be forwarded to the Recipient upon completion. Any costs associated with the annual audit shall be the responsibility of and paid for by the Subrecipient.

If the Subrecipient does not exceed the expenditure limits per 2 CFR Part 200.000-520, the Subrecipient shall provide the Recipient with a copy of the Subrecipient's latest Audit Report.

XXII. Agreement Responsibility for Monitoring and Records

HUD, the Office of the Inspector General (OIG), and the designated representatives of the Recipient, and other appropriate officials shall have access to all personnel records, management information, and fiscal data of the Subrecipient and any agency or contractor with whom the

Subrecipient executes a subcontract necessary to carry out any CDBG program(s) for monitoring purposes (24 CFR 200.328, 200.327 and 200.326). The Subrecipient shall respond in a timely manner to all identified corrective action needs as a result of HUD, Recipient, or other monitoring. The Subrecipient shall submit to Recipient all required reports and monitoring corrective action plans on a timely basis, as delineated by the Recipient. Records shall be maintained as follows:

A. The Subrecipient agrees to retain all pertinent records under the CDBG Program, including financial records, until advised by the Recipient that further retention is unnecessary. Generally, records shall be retained for a period for five (5) years from the end of the Term (see Section 5 above – Term of Agreement) or the fiscal year in which the last project covered by the Recipient's annual agreement with HUD is completed. Records shall be open and available for inspection by auditors and/or other staff assigned by HUD and/or the Recipient during the normal business hours of the subrecipient. If at the end of such five (5) year period, there is ongoing litigation, claims, negotiations, audit or other action involving the Subrecipient's or the Recipient's records, which has started before expiration of the five (5) year period, the Subrecipient will retain the records until the completion of the action and resolution of all issues which arise from it as stated in 2 CFR Part 200.333.

B. Consistent with applicable state and local laws regarding privacy and obligations of confidentiality, the Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts to the Recipient, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein The Subrecipient also must provide citizens with reasonable access to records on the past use of CDBG funds (24 CFR 570.508).

C. Records for nonexpendable property shall be retained for a period of five (5) years after final disposition of the property, if applicable.

XXIII. Inspection Rights

The Subrecipient agrees to allow the Recipient to inspect the Work and the Project at reasonable times upon a minimum 24-hour advance notice.

XXIV. Request for Technical Assistance

The Subrecipient shall refer to the Recipient any regulatory or procedural questions regarding operation of its CDBG program. All formal requests for technical assistance shall be submitted in writing. Requests should specify the problem area, particular assistance being requested and proposed solution if applicable. Informal questions regarding day-to-day program operation may be directed to the designated Recipient representative.

XXV. Hold Harmless and Indemnification

The Subrecipient shall hold the Recipient and the Recipient's officers, employees, agents and volunteers harmless and free from any and all claims, liabilities or expenses, including attorney's fees, arising out of or relating to any negligent act, negligent omission, or other wrongful conduct related in any way to the Subrecipient's performance of the Work pursuant to this CDBG Subrecipient Agreement, provided such claims, liabilities or expenses were not the result of the gross negligence, willful misconduct or fraud of the Recipient or the Recipient's officers, employees, agents or volunteers. In the event the Recipient and/or any of the Recipient's officers, employees, agents or volunteers are named in any lawsuit, or should any claim be made against it or any of them by lawsuit or otherwise arising out of or relating to such negligent act, negligent omission or other wrongful conduct for which it is entitled to indemnification pursuant to this Section XXV, the Subrecipient shall indemnify them for any judgment rendered against them, any sums paid out in settlement or otherwise, and all costs incurred by them in their defense, including, but not limited to attorney's fees.

The Subrecipient also understands and agrees that it is being employed to perform the services provided for by this CDBG Subrecipient Agreement because of the Subrecipient's professed expertise and experience in performing the Work provided for under this CDBG Subrecipient Agreement. In addition, the Subrecipient understands and agrees that while the Recipient and the Recipient's officers or agents may elect to do so, they have no duty to review, inspect, or supervise the Work performed by the Subrecipient pursuant to this CDBG Subrecipient Agreement, except as otherwise expressly provided for by this CDBG Subrecipient Agreement. As a consequence, the Subrecipient waives any right of contribution against the Recipient or any of the Recipient's officers, employees, agents and volunteers arising out of such failure to inspect, review, monitor or supervise the Work performed by the Subrecipient pursuant to this CDBG Subrecipient Agreement.

XXVI. Insurance

Subrecipient shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Subrecipient, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Subrecipient shall maintain insurance coverage as specified in **Exhibit E** of this Agreement.

Verification of Coverage

Subrecipient shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Subrecipient's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org.

Subcontractors

Subrecipient shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

XXVII. Covenants and Conditions

Each term and each provision of this CDBG Subrecipient Agreement to be performed by the Subrecipient shall be construed to be both a covenant and a condition.

XXVIII. Effect of Termination

For Agreements exceeding $10,000 the following applies:

A. Termination of Agreement for Convenience: In accordance with 24 CFR Part 570.509(e) and 2 CFR 200.339, this CDBG Subrecipient Agreement may be terminated by mutual agreement of the parties or by either party after a thirty (30) days written notice of intention to terminate, setting forth the reasons and the effective date of such termination, has been given to the other party, provided, however, that no notice of termination given by the Subrecipient shall be effective unless HUD has agreed to release Recipient from its obligations pursuant to the program activity(ies) in **Exhibit B** – Statement of Work and no notice of termination given by Subrecipient shall be effective unless Recipient is in default under this CDBG Subrecipient Agreement and such default has not been cured within applicable notice and cure periods.. Alternatively, this CDBG Subrecipient Agreement will automatically terminate in the event that the United States Government terminates the CDBG programs or terminates the program activity(ies) which is the subject of the Agreement.

B. Termination of Agreement for Cause: In accordance with 24 CFR 570.509(f) and 2 CFR 200.339, the Parties hereto understand that pursuant to the Recipient's execution of the HUD application, the Recipient assumed responsibility as to the performance of the Work. If through any cause the Subrecipient fails to fulfill in a timely and proper manner its obligations under this CDBG Subrecipient Agreement to undertake, conduct or perform the Work identified in this CDBG Subrecipient Agreement, or if the Subrecipient violates any of the covenants, agreements, or stipulations of this CDBG Subrecipient Agreement and does not cure such violation within applicable notice and cure periods, the Recipient shall thereupon have the right to terminate this CDBG Subrecipient Agreement by giving written notice of such termination and specifying the effective date thereof at least (5) days before the effective date of such termination. Notwithstanding the above, the Subrecipient shall not be relieved of liability to the Recipient for damages sustained by the Recipient by virtue of any payments to the Subrecipient for the purpose of set-off until such time as the exact amount of damages due the Recipient from the Subrecipient is determined.

C. Upon termination, as stated in subsections A or B above of this CDBG Subrecipient Agreement, the Recipient shall be liable to the Subrecipient only for Work done by the Subrecipient up to and including the date of termination of this CDBG Subrecipient Agreement, unless the termination is for cause, in which event the Subrecipient need be compensated only to the extent required by law. The Subrecipient hereby expressly waives any and all claims for damages for compensation arising under this CDBG Subrecipient Agreement except as set forth in this Section in the event of such termination.

D. If this Agreement is terminated pursuant to this Section, the Subrecipient shall remain responsible for compliance with the requirements in 2 CFR 200.343 (Closeout) and 2 CFR 200.344 (Post-closeout adjustments and continuing responsibilities).

XXIX. Taxpayer Identification Number

The Subrecipient shall provide the Recipient with a complete Request for Taxpayer Identification Number and Certification, Form W-9 as issued by the Internal Revenue Service.

XXX. Modification of Agreement

Except as provided in Section 3 (Availability of Funds), the tasks described in this CDBG Subrecipient Agreement and all other terms of this CDBG Subrecipient Agreement may be modified only upon mutual written consent of the Recipient and the Subrecipient.

XXXI. Use of the term "Recipient"

Reference to "Recipient" in this CDBG Subrecipient Agreement includes the designated Recipient representative, or any authorized representative acting on behalf of the Recipient.

XXXII. Notices

All notices given, or required to be given, pursuant to this CDBG Subrecipient Agreement shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed to each party's designated representative as set forth above in Section 10 (Designated Representative). When addressed in accordance with Section 10, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual hand delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in Section 10.C.

Notices shall be sent to the Recipient and to Subrecipient's representative at the addresses shown in Section 10 (Designated Representative).

XXXIII. Permits and Licenses

The Subrecipient, at its sole expense, shall obtain and maintain during the Term of this CDBG Subrecipient Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Work under this CDBG Subrecipient Agreement, or as specified in Section 39 (Patents & Royalties).

XXXIV. Waiver

A waiver by the Recipient of any breach of any term, covenant, or condition contained in this CDBG Subrecipient Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this CDBG Subrecipient Agreement whether of the same or different character.

XXXV. Violation or Breach Agreement Terms

A breach of any of the stipulations contained in this Agreement may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the Agreement, suspension/debarment or any other action determined to be appropriate by the Recipient.

XXXVI. Governing Law

The terms, covenants and conditions of this CDBG Subrecipient Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the County of Ventura.

XXXVII. Integrated Agreement

This CDBG Subrecipient Agreement represents the entire Agreement between the Recipient and the Subrecipient and all preliminary negotiations and agreements are deemed a part of this CDBG Subrecipient Agreement. No verbal agreement or implied covenant shall be held to vary the provisions of this CDBG Subrecipient Agreement. This Agreement shall bind and inure to the benefit of the Parties to this CDBG Subrecipient Agreement and any subsequent successors and assigns.

XXXVIII. No Assignment without Consent

A. Inasmuch as this CDBG Subrecipient Agreement is intended to secure the specialized services of the Subrecipient, unless a transfer is allowed either (i) in the CDBG Note or (ii) pursuant to subsection B below, the Subrecipient shall not have the right to either (l) assign or transfer this CDBG Subrecipient Agreement, or any part hereof or monies payable hereunder, or (II) modify its own organizational structure, without the prior written consent of the City, which consent will not be unreasonably withheld, and any such assignment or transfer without the City's prior written consent shall be considered null and void.

B. A limited partner(s) may remove and replace the managing general partner of the Subrecipient for cause pursuant the Subrecipient / limited partner agreement. However, the Subrecipient's managing general partner shall not be replaced without prior written approval of the City, and the City shall consider then approve or disapprove such replacement without unreasonable delay.

XXXIX. Patents and Royalties

A. Subrecipient shall provide and pay for all licenses and royalties necessary for the legal use and operation of any of the equipment or specialties used in the Project activities. Certificates showing the payment of any such licenses or royalties and permits for the use of any patented or copyrighted devices shall be secured and paid for by Subrecipient and delivered to the Recipient upon completion of the Project activities, if required.

B. Subrecipient shall assume all costs arising from the use of patented materials, equipment, devices, or processes used in or incorporated in the Project activities and agrees to indemnify and hold harmless the Recipient and its duly authorized representatives from all suits of law, or actions of every nature for or on account of the use of any patented materials, equipment, devices, or processes.

XL. Copyright

Any reports, maps, documents or other materials produced in whole or part by the

Subrecipient, its contractor or any subcontractor or person responsible to the Subrecipient under this CDBG Subrecipient Agreement shall be the property of the Recipient and none shall be subject to an application for copyright by or on behalf of the Subrecipient, contractor, subcontractors or any person responsible to the Subrecipient during performance of this CDBG Subrecipient Agreement.

This CDBG Subrecipient Agreement may be executed in counterparts and shall be fully effective as if signed by all parties whether or not the signatures of all the parties appear on the original or on any one copy of this CDBG Subrecipient Agreement.

XLI. Subordination.

A. The Deed of Trust and the Regulatory Agreement shall be subordinated to each Senior Lien described below and to other liens approved by the Housing Director or Designee securing financing set forth in the Approved Financing Plan, if any, but only on condition that all of the following conditions are satisfied:

1. All of the proceeds of the proposed Senior Lien, less any transaction costs, must be used to provide construction and/or permanent financing for the Development.
2. The subordination agreement(s) must be structured to minimize the risk that the Deed of Trust would be extinguished as a result of a foreclosure by the Senior Lender or other holder of the Senior Lien. To satisfy this requirement, the subordination agreement must provide the City with adequate rights to cure any defaults by the Borrower, including: (i) providing the City or its successor with copies of any notices of default at the same time and in the same manner as provided to the Borrower; and (ii) providing the City with a cure period to cure any default.

B. The subordination(s) described in this section may be effective only during the original term of the Senior Lien (including any extension options set forth in the documents evidencing the Senior Loan) and any refinancing of the Senior Lien.

C. "Senior Liens" shall mean liens securing repayment of and regulatory agreements associated with the following loans:

1. Keybank National Association and U.S. Bank Trust Company, National Association $20,013,627 construction loan
2. California Department of Housing and Community Development $7,234,582 Competitive No Place Like Home permanent loan
3. California Department of Housing and Community Development $1,600,109 Non-Competitive No Place Like Home permanent loan
4. The County of Ventura construction/permanent CDBG-CV loan of $3,491,298
5. The County of Ventura construction/permanent HOME-ARP loan of $1,000,000
6. Mercy House CHDO, Inc construction/permanent loan of $13,500,000

[Signatures appear on the following pages]

NOW, THEREFORE, the Parties hereto have caused this CDBG Subrecipient Agreement to be executed and attested by their proper officer thereunder duly authorized, all as of the day first above written.

RECIPIENT:
THE CITY OF OXNARD

Housing Director

APPROVED AS TO FORM:

Stephen Fischer
City Attorney

APPROVED AS TO INSURANCE:

Michael More
Human Resources/Risk Manager

SUBRECIPIENT:
CASA ALIENTO, LP, a California limited partnership

By: Casa Aliento CDP LLC, a California limited liability company
Its: Administrative General Partner

By: Community Development Partners, a California benefit corporation,
Its: Manager

Kyle Paine, President

By: Casa Aliento Mercy House CHDO LLC, a California limited liability company
Its: Managing General Partner

By: Mercy House CHDO, Inc., a California non-profit public benefit corporation
Its: Manager

Lawrence G. Haynes, Jr., Chief Executive Officer

EXHIBIT A
LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA, DESCRJBED AS FOLLOWS:

PARCELS 1 AND 2, OF PARCEL MAP NO. 22-300-04, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 74, PAGES 9, 10 AND 11, OF INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 200-0-082-220 AND APN: 200-0-082-230

EXHIBIT B
STATEMENT OF WORK

1. Description of Work

(a) Rehabilitation Work: The Subrecipient will use the $792,999 in CDBG Program funds to complete rehabilitation work related to Subrecipient's development of the Project. The Subrecipient will operate the Project as permanent supportive rental housing for persons experiencing homelessness or who are at-risk of homelessness The Subrecipient will manage the Project for a five (5) year compliance period (pursuant to the CDBG Covenants) as permanent supportive rental housing for persons experiencing homelessness or who are at-risk of homelessness with incomes at or below 50% of the area median income for Ventura County.

(b) On-going Project Operation: The Subrecipient and the City have executed the CDBG Regulatory Agreement and Restrictive Covenants ("CDBG Covenants") concurrently with this CDBG Subrecipient Agreement. The CDBG Covenants establish a five (5) year compliance period for the Project. During the five (5) year compliance period, the Subrecipient shall operate and maintain the Project development in conformance with the CDBG Covenants and with the requirements of this CDBG Subrecipient Agreement. In case of a conflict between the CDBG Covenants and this CDBG Subrecipient Agreement, the more restrictive covenants, standards, and/or requirements shall apply. Project apartment units shall be occupied by income eligible tenants continuously throughout the five (5) year compliance period (pursuant to the CDBG Covenants), to the satisfaction of the Recipient and HUD.

2. Scope of Work: Rehabilitation Work

(a) This CDBG Subrecipient Agreement shall be executed prior to the disbursement of any CDBG funds to the Subrecipient. The Subrecipient agrees that the CDBG Program funds of $792,999 shall be secured through the establishment of a lien in fifth position during construction phase and sixth position during permanent phase of financing on the title of the Property. The Subrecipient agrees to take any and all actions necessary to secure, retain, and defend the position of the City's CDBG lien on the title of the Property as set forth in this subsection (a) unless the City has agreed in writing to a different arrangement within the chain of title and the City has issued its written consent to such a change prior to any such change in title being initiated or put into effect.

(b) No earlier than January 21, 2025, the Subrecipient shall commence Work activities as described in **Exhibit B**. This commencement date may be amended only with prior written approval by the Housing Director or Designee in conformance with Section 8 (Work Review Conference).

(c) No later than June 30, 2025, the Subrecipient shall complete all Work activities as described in **Exhibit B**. This completion schedule may be extended only with prior written

approval by the City Housing Director or Designee in conformance with Section 8 (Work Review Conference) but shall in no event be extended beyond December 31, 2025.

(d) If the City, in its sole discretion, determines that the Work fails to comply with the Scope of Work standards and requirements described herein, such failure shall constitute an event of default under the CDBG Deed of Trust and CDBG Note and also this CDBG Subrecipient Agreement.

3. Reporting.

(a) Construction Phase: During the rehabilitation construction phase, the Subrecipient shall submit quarterly progress reports to the City describing the progress made towards such rehabilitation activities. The quarterly reports shall be submitted to the City within 15 days after the end of each quarter.

(b) On-going reporting: See below – Scope of Work: On-Going Project Operation.

4. Scope of Work: On-Going Project Operation.

(a) For each year of the five (5) year compliance period of the CDBG Covenants the Subrecipient shall own, operate and manage the Property in full compliance with all applicable government codes and laws, and to the full satisfaction of the City. The Subrecipient shall provide housing and related services, benefits and assistance to low- and moderate-income persons / households, in compliance with 24 CFR 570.201 and 24 CFR 570.208 of the federal CDBG regulations, throughout the entire five (5) year compliance period.

(b) The Project shall be occupied by income eligible tenants continuously throughout the five (5) year compliance period of the CDBG Covenants, to the satisfaction of the Recipient and HUD. The five (5) year compliance period shall commence upon the date of the recordation of a notice of completion (of construction) issued for the Project.

(c) In conformance with the CDBG Covenants: (i) throughout the entire five (5) year of the CDBG Covenants, the Subrecipient shall provide all beneficiary information in a report format and time schedule that (1) is acceptable to the City, and (2) that enables the City to meet all reporting requirements of HUD and the CDBG Program, and (ii) the Subrecipient shall fully assist and cooperate with the City as the City monitors and audits the Project during the five (5) years of the CDBG Covenants. The Subrecipient shall promptly address and resolve all shortcomings of the Project or defects identified by the City to the City's satisfaction.

(d) During the Term of this CDBG Subrecipient Agreement, the Subrecipient shall retain legal ownership of the Property and of all rights, royalties, profits and proceeds generated or caused by the Property.

(f) Reversion of Assets. The five (5) year period set forth in 24 CFR 570.503(b)(7) for

compliance with one or more national objectives shall be included and contained within the five (5) year compliance period established by the CDBG Covenants.

EXHIBIT C
SCHEDULE OF COMPENSATION

1. **Compensation.** Subject to the terms and conditions of this CDBG Subrecipient Agreement, and pursuant to the CDBG Note, the City shall provide to the Subrecipient the amount of Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999) of CDBG Program funds to enable the Subrecipient to pay for eligible rehabilitation costs related to development of the Project. In no instance shall the City be liable for Work costs in excess of $792,999, nor for any unauthorized or ineligible costs. The Subrecipient shall not obligate or expend the funds for any purpose other than for the rehabilitation work set forth herein. Payment for the foregoing shall be in accordance with the following procedure:

(a) Concurrently with this CDBG Subrecipient Agreement, the Subrecipient shall execute a promissory note in favor of the City in the amount of $792,999 ("CDBG Note"), a deed of trust and assignment of rents ("CDBG Deed of Trust"), and a regulatory agreement and restrictive covenants ("CDBG Covenants"). The CDBG Deed of Trust and the CDBG Covenants shall be recorded prior to any payment of CDBG Program funds from the City to the Subrecipient. The CDBG Deed of Trust and the CDBG Regulatory Agreement shall be subordinated to other liens and regulatory agreements ("Senior Liens") on the Project as described in Section XLI.of this Agreement, but only on condition that all of the following conditions are satisfied:

(i) All of the proceeds of the proposed Senior Lien, less any transaction costs, must be used to provide construction and/or permanent financing for the Development.

(ii) The subordination agreement(s) must be structured to minimize the risk that the CDBG Deed of Trust would be extinguished as a result of a foreclosure by the Senior Lender or other holder of the Senior Lien. To satisfy this requirement, the subordination agreement must provide the City with adequate rights to cure any defaults by the Subrecipient, including: (i) providing the City or its successor with copies of any notices of default at the same time and in the same manner as provided to the Subrecipient; and (ii) providing the City with a cure period to cure any default.

(iii) The subordination(s) described in this section may be effective only during the original term of the Senior Lien and any refinancing of the Senior Lien.

The Housing Director or Designee is authorized to execute and form of subordination agreement provided by such Senior Lenders and approved as to form by the City Attorney

(b) The Subrecipient shall submit a completed Subrecipient Payment Request Form (see attached **Exhibit D**) with each payment request. Such payment requests may be submitted no more frequently than on a monthly basis. The Subrecipient shall also submit receipts and other documentation that describe the documents, materials, and activities that will be paid for and/or reimbursed with each specific payment request.

(c) The Subrecipient may not request disbursement of CDBG funds until the funds are needed for payment of eligible costs (i.e., reimbursement of eligible rehabilitation costs).

(d) The CDBG Covenants affecting the Project shall provide for the use of the Property as an affordable housing project that benefits low- and moderate-income persons / households for a compliance period of at least five (5) years.

2. Billing. Subrecipient shall submit an invoice and copies of all original supporting documentation to the Recipient at the following address:

CITY OF OXNARD
Housing Department
435 S D Street
Oxnard, CA 93030
Attention: Housing Director

3. Progress Reports. The Subrecipient shall submit quarterly progress reports to the Recipient.

4. Method of Payment. Payment to Subrecipient of the compensation discussed above shall be based on the submittal and approval of an invoice, and based on conformance with this CDBG Subrecipient Agreement during the Term of this CDBG Subrecipient Agreement. The final disbursement of $1 will occur after final inspection and Project is 100% occupied.

5. Sources and Availability of Funds. It is understood by the parties hereto that the funds being used for the purposes of this CDBG Subrecipient Agreement are funds furnished to the City through HUD pursuant to the provisions of Title 1 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et. seq.) (hereinafter referred to as the "Act"). Notwithstanding any other provision of this CDBG Subrecipient Agreement, the liability of the City shall be limited to the CDBG funds that are available. The Subrecipient understands that the City must wait for the release of funds from HUD before grant funds may be advanced or reimbursed. The City shall incur no liability to the Subrecipient, its officers, agents, employees, suppliers, or contractors for any delay in making any such payments, unless such delay is caused by City's intentional misconduct.

6. Relationship to Grant Agreement. The Subrecipient acknowledges and agrees that this CDBG Subrecipient Agreement is subject to the obligations and limitations imposed on the City by the grant agreement for the CDBG Program ("Grant Agreement") executed by HUD and the City, and by all future amendments to the Grant Agreement, and that this CDBG Subrecipient Agreement is intended to be in conformance and harmony with the Grant Agreement. The Subrecipient further acknowledges that if the Grant Agreement is terminated by the United States Government prior to the implementation by appropriation and/or funding of this CDBG Subrecipient Agreement, then the City shall have the right to terminate or amend this CDBG Subrecipient Agreement by giving

written notice of the termination or amendment of the Agreement to the Subrecipient. The Subrecipient hereby expressly agrees to the provisions of the Grant Agreement and further expressly agrees that nothing in this CDBG Subrecipient Agreement shall be deemed to require the City to perform an obligation in conflict with the Grant Agreement. The Subrecipient further agrees that the City's right to enter into amendments to the Grant Agreement is not, and shall not be restricted or impaired, in any way, by this CDBG Subrecipient Agreement.

4. Reimbursement of Improper Expenditures. If at any time within applicable statutory periods of limitation it is determined by the City or by HUD or its duly authorized representatives, or by the United States Secretary of Treasury or duly authorized representatives that funds provided for under the terms and conditions of this CDBG Subrecipient Agreement have been used by or on behalf of the Subrecipient in a manner or for purposes not authorized or prohibited by the Act or regulations adopted pursuant thereto the Subrecipient shall, at the City's request, pay to the City an amount equal to one hundred percent (100%) of the amount improperly expended.

EXHIBIT D

SUBRECIPIENT PAYMENT REQUEST FORM

ORGANIZATION NAME:

Invoice Number:

Project Name:

Contract Period:

Total Budget:

Billing Period:

Agreement Number: 3XXXXX **HUD Agreement Number: B-XX-MC-06-0534**

Line Item per Category	Budgeted Amount	July 2024	August 2024	September 2024	October 2024	*Month Year*	*Month Year*	*Month Year*	*Month Year*	*Month Year*	*Month Year*	*Month Year*	Project to date Amount	Balance
Position													0.00	0.00
Salaries/wages													0.00	0.00
Employee Benefits													0.00	0.00
Other:													0.00	0.00
[Enter Line Item]													0.00	0.00
													0.00	0.00
													0.00	0.00
													0.00	0.00
													0.00	0.00
													0.00	0.00
													0.00	0.00
Total													**0.00**	**0.00**

Invoice Amount Due: _____

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

Authorized Signature: _____ **Date:** _____

Title: _____

EXHIBIT E

INSURANCE

INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS (WITH BUILDER'S RISK REQUIREMENT)

1. Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $2,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project location or shall be twice the occurrence amount;

b. Business Automobile Liability Insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than $1,000,000, with neither Contractor nor listed subcontractors having less than $500,000 individually. The Professional Liability/Errors and Omissions Insurance must be project specific with at least a one-year extended reporting period, or longer upon request.

d. Course of Construction Insurance providing coverage for "all risks" of loss in an amount not less than the completed value of the project, with City named as Owner and Insured.

e. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

1. Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-E. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance policies at any time. The

certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

2. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

3. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-E or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

4. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages **(this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

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

6. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

1/23

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-E.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $2,000,000 PRODUCTS COMP/OP AGG. $2,000,000 PERSONAL & ADV. INJURY $2,000,000 EACH OCCURRENCE $2,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION** AND EMPLOYERS' LIABILITY				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract, Course of Construction Insurance				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000 Course of Construction Completed Value of Project

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

SAMPLE

GENERAL LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits
☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ☐ Per Occurrence ☐ Per Claim (which)

APPLICABILITY This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made
☐ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
☐ OWNERS & CONTRACTORS PROTECTIVE ☐ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $ EACH OCCURRENCE	AGGREGATE
☐ GENERAL		
☐ PRODUCTS/COMPLETED OPERATIONS		
☐ PERSONAL & ADVERTISING INJURY		
☐ FIRE DAMAGE		
☐ _____		
☐ _____		

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:
Name: _____
Address: _____
_____
Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   a. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE
☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

Rev. 1/23 INS-E.doc

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits
☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage: ☐ Per Occurrence ☐ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

☐ COMMERCIAL AUTO POLICY
☐ BUSINESS AUTO POLICY
☐ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
Telephone: (____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

Rev. 1/23 INS-E.doc

Agreement #A-8568

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO: CITY OF OXNARD Housing Department 435 S D Street Oxnard, CA 93030 Attention: Housing Director No recording fee pursuant to California Government Code Section 27383	
APN: 200-0-082-220 AND 200-0-082-230	SPACE ABOVE THIS LINE FOR RECORDER'S USE

CITY OF OXNARD CDBG REGULATORY AGREEMENT
AND RESTRICTIVE COVENANTS

These CITY OF OXNARD CDBG REGULATORY AGREEMENT AND RESTRICTIVE COVENANTS ("CDBG Covenants") are made and entered into on or about _____, 2025, by and between the City of Oxnard, a municipal corporation (the "City" or "Recipient"), and Casa Aliento LP, a California limited liability partnership (the "Subrecipient").

RECITALS

A. The City is a Participating Jurisdiction in the funding programs of the federal Department of Housing and Urban Development ("HUD"), and has received funds from HUD pursuant to the Community Development Block Grant program ("CDBG Program") to be used pursuant to applicable federal regulations (24 CFR Part 570).

B. Subrecipient owns that certain real property located at 1245 N. Oxnard Blvd., Oxnard, California 93030, as more particularly described in Exhibit A (the "Property"), upon which Subrecipient intends to rehabilitate and convert an existing motel into sixty-nine (69) units of permanent supportive rental housing for persons experiencing homelessness or who are at-risk of homelessness and one (1) manager's unit (the "Project").

C. The City has provided a loan to the Subrecipient in the amount of Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999) for the purpose of assisting the Subrecipient with the costs of rehabilitation work related to Subrecipient's development of the Project (the "Work").

D. The City and the Subrecipient wish to assure that the Project will be rented continuously to Income-Eligible households experiencing Homelessness or who are at-risk of Homelessness

with incomes at or below 50% of the area median income for Ventura County in conformance with these CDBG Covenants for the entire Term of these CDBG Covenants, as defined below.

E. The purpose of these CDBG Covenants is to regulate and restrict the occupancy, rents, operation, ownership, and management of the Project and its affordable housing units. These CDBG Covenants are intended to run with the land and be binding on the Subrecipient and its successors and assigns in the Property.

F. These CDBG Covenants are subject to the terms and conditions of the CDBG Subrecipient Agreement between the Recipient and the Subrecipient of even date herewith.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged the parties and agree as follows:

ARTICLE I. DEFINITIONS

Section 1.01 "Term" means the five (5) year compliance period during which the Project must meet the affordability requirements imposed under the CDBG Program, commencing upon the date of the recordation of a notice of completion issued for the Project. Regarding the reversion of assets, the five (5) year period set forth in 24 CFR 570.503(b)(7) for compliance with one or more national objectives shall be included and contained within the five (5) year compliance period established by these CDBG Covenants.

Section 1.02 "CDBG Loan" means the loan of CDBG Program funds in the amount of Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999) made by the City to the Subrecipient to assist with payment of the cost of the Work pursuant to the CDBG Subrecipient Agreement and the CDBG Note.

Section 1.03 "CDBG Subrecipient Agreement" means the Subrecipient Agreement for CDBG Grant Funds Between the City of Oxnard and Casa Aliento LP for rehabilitation Costs in Support of Affordable Housing Development in the City of Oxnard executed by and between the Subrecipient and the City concurrently herewith and setting forth the terms and conditions governing the CDBG Loan.

Section 1.04 "CDBG Deed of Trust" means that certain Deed of Trust with Assignment of Rents executed by and between the Subrecipient and the City and recorded concurrently herewith as security for the CDBG Loan with the Subrecipient as trustor and the City as beneficiary, as well as any amendments to, modifications of, and restatements thereto.

Section 1.05 "CDBG Loan Documents" are collectively the CDBG Subrecipient Agreement, the CDBG Note, the CDBG Deed of Trust, and these CDBG Covenants as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

Section 1.06 "CDBG Note" means the City of Oxnard Community Development Block Grant Program Promissory Note Secured By Deed Of Trust executed by the Subrecipient concurrently herewith in favor of the City in the amount of Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999)) evidencing the CDBG Loan, which is secured by the CDBG Deed of Trust, as well as any amendments to, modifications of, or restatements thereto.

Section 1.07 "Low-income household" means a household having an income equal to or less than the Section 8 very low-income limit established by HUD (i.e. 50% or less of area median income adjusted for family size by the State Department of Housing and Community Development) pursuant to 24 CFR 570.3.

Section 1.08 "Income Eligible" shall mean individuals and households meeting the income definitions under Sections 1.07.

Section 1.09 "Area Median Income" shall mean the county wide median income in the then currently published guidelines of the U.S. Department of Housing and Urban Development.

Section 1.10 "Homelessness" has the same meaning as defined in Section 578.3 of Title 24 of the Code of Federal Regulation.

Article II. TERMS AND COMPLIANCE

Section 2.01 The Subrecipient's actions with respect to the Property, the Project and the use of funds from the CDBG Loan shall at all times be in full conformity with all of the requirements of the CDBG Loan Documents.

Section 2.02 These CDBG Covenants shall be effective throughout the Term, as defined above.

Section 2.03 The Subrecipient shall comply with all requirements imposed on projects assisted under the CDBG Program (24 CFR Part 570) in effect on the date that the CDBG Loan is executed by all parties, and as the same may be amended from time to time.

Section 2.04 These affordability requirements shall be covenants running with the land as defined in California Civil Code section 1462. Pursuant to Civil Code section 1468 which governs such covenants, the provisions of these CDBG Covenants shall be binding upon all parties having any right, title, or interest in any of the properties described herein, or any portion thereof and on their heirs, successors in interest and assigns for the Term of these CDBG Covenants. The parties agree that all future deeds or transfers of interest regarding the Property shall show the restrictions of these CDBG Covenants for as long as the Covenants are in effect.

Section 2.05 The Subrecipient, by and for itself and any successors in interest, covenants and agrees that for the entire Term of these CDBG Covenants there shall be no sale, lease, rental, occupancy, removal or other transfer of any of the Project's affordable rental apartment units except for the rental or leasing of individual apartment units to income eligible persons/ households (as defined in Section 1.09 above), or a transfer as permitted in the CDBG Note. The on-site managers' apartment units are not subject to affordability restrictions. Any sale, lease, rental, occupancy, removal or other transfer of any of the Project's affordable rental apartment units in violation of these CDBG Covenants shall be void unless authorized by the prior written consent of the City.

Section 2.06 In the event that the Subrecipient ceases to use the Property as an affordable housing project for income eligible persons / households, or if the Property is transferred, assigned, leased, sold, encumbered or foreclosed whether voluntarily or involuntarily within the Term of these CDBG Covenants, without the prior written consent of the City, the Subrecipient shall repay to the City all CDBG funds loaned to the Subrecipient and invested in the Project, subject to a reasonable notice and cure period.

Article III. PROJECT OCCUPANCY AND RENTS

Section 3.01 During the Term of these CDBG Covenants, the Subrecipient shall rent the units in the Project, excluding the managers' units, to Income-Eligible households experiencing Homelessness or who are at-risk of Homelessness with incomes at or below 50% of the area median income for Ventura County at rent levels consistent with the requirements of 24 CFR 570.201 and 24 CFR 570.208 of the federal CDBG regulations. Non-compliance under the terms of these CDBG Covenants shall constitute an event of default under the CDBG Note and CDBG Deed of Trust, subject to applicable cure periods.

Section 3.02 Pursuant to 24 CFR 8.22 & 8.23 & 8.32, no less than five percent (5%) of the Project's units shall be constructed as Accessible units (for the physically disabled) and an additional two percent (2%) or more of the Project's units shall be constructed as Sensory units (for the visual and hearing disabled).

Section 3.03 The Project's units, other than the manager's unit, shall be occupied by Income-Eligible households experiencing Homelessness or who are at-risk of Homelessness with incomes at or below 50% of the area median income for Ventura County within twelve (12) months from the date of issuance of a certificate of occupancy for the Project. Upon the initial occupancy of each individual unit, other than the manager's unit, the Subrecipient shall provide to the City a Beneficiary Report pursuant to Section 4.01(a) (Beneficiary Report). This 12-month occupancy requirement may not be extended without prior written approval by the City. If all of the Project's units are not occupied within eighteen (18) months of the date of issuance of a certificate of occupancy for the Project, then this shall constitute an event of default, and the Subrecipient shall repay to the City all CDBG funds loaned to the Subrecipient and invested in the Project.

Section 3.04 Marketing Plan. Prior to occupancy of the Project, the Subrecipient shall submit to the City for approval the marketing plan for the Project, including information on affirmative marketing efforts and compliance with both the federal fair housing laws and the City's affirmative marketing policy. The City shall approve or disapprove the Project marketing plan within thirty (30) days. If the City does not respond within such 30 days, the marketing plan shall be deemed approved. If the City disapproves the marketing plan, the City shall specify its reasons for disapproval. The Subrecipient shall submit a revised marketing plan within thirty (30) days of the City's notice of disapproval. The City shall approve or disapprove the revised marketing plan within thirty (30) days of submittal. The City's disapproval of a revised marketing plan shall constitute an event of default under the provisions of the CDBG Note and the CDBG Deed of Trust.

Article IV. REPORTING AND ON-GOING OPERATIONS

Section 4.01 Beneficiary Report. Immediately upon the initial occupancy of all sixty-nine (69) affordable rental units by Income-Eligible households experiencing Homelessness or who are at-risk of Homelessness with incomes at or below 50% of the area median income for Ventura County the Subrecipient shall submit to the Recipient a beneficiary report that provides the tenant household information necessary to enable the Recipient to submit a project completion report into the federal Integrated Disbursement and Information System (IDIS). This beneficiary information is required for the households in all seventy 70) affordable housing units, excluding the manager's unit.

Section 4.02 On-Going Project Operation. For each year of the Term of these CDBG Covenants, the Subrecipient shall:

(a) Annually submit to and obtain City approval of the rental rate and utility allowance that is used for each of the Project's affordable housing units.

(b) Provide each tenant household with a minimum 30-day notice prior to implementing any rent increase.

(c) Submit to the City an annual report on the Project's affordable housing units. At a minimum, this annual report shall provide the following information for each unit: tenant household name, size and income amount, the rental unit size (number of bedrooms) and address, and the rental / utility rate that was charged for the reporting year.

(d) Affirmative Marketing: Annual reports shall be submitted by the Subrecipient to the City. Each report shall describe the clientele served by the Project (i.e. total number of clients served with respect to race, ethnicity, gender and disability status). Affirmative steps shall be taken (i.e. targeted marketing) with respects to increasing the participation of any underserved or under-represented group(s).

Section 4.03 Inspection, Records and Monitoring

(a) All required reports and supporting materials that are required by these CDBG Covenants shall be retained by the Subrecipient for a period of no less than five (5) years. The Subrecipient shall make all such reports and materials available to the City or its representative for review and copy within ten (10) days after any request by the City to review such reports.

(b) The Subrecipient shall permit the City or its representative to conduct annual compliance monitoring, including performing on-site records review and inspections of the Project development and Property, as required by regulation or reasonably requested by the City. The City shall provide reasonable notice prior to inspection.

Article V. GENERAL

Section 5.01 These CDBG Covenants shall not be subordinate to any deed of trust, agreement and/or other obligations of the Subrecipient concerning the Property, except for Senior Liens described in Section XLI.C of the CDBG Subrecipient Agreement, and may be subordinated in priority only as to other liens and encumbrances otherwise approved in writing by the City.

Section 5.02 Notices required to be sent to the City hereunder shall be sent by certified mail, return receipt requested, to the following address:

CITY OF OXNARD
Housing Department
435 S D Street
Oxnard, CA 93030
Attention: Housing Director

Notices to Subrecipient shall be to:

CASA ALIENTO LP
3416 Via Oporto, Suite 301
Newport Beach, CA 92663
Attention: Asset Management

With copy to: CASA ALIENTO MERCY HOUSE CHDO LLC
P.O. Box 1905
Santa Ana, CA 92701
Attention: Chief Executive Officer

Section 5.03 The Subrecipient hereby specifically acknowledges and agrees to be bound by the covenants contained herein regarding the affordability of the Project and its affordable housing units.

Section 5.04 These CDBG Covenants may be executed in counterparts and shall be fully effective as if signed by all parties whether or not the signatures of all the parties appear on the original or on any one copy of these CDBG Covenants.

[Signature blocks appear on following pages]

IN WITNESS WHEREOF, the parties hereto have executed these CDBG Covenants as of the day and year first above written.

RECIPIENT:
THE CITY OF OXNARD

Housing Director

APPROVED AS TO FORM:

Stephen Fischer
City Attorney

SUBRECIPIENT:
CASA ALIENTO, LP, a California limited partnership

By: Casa Aliento CDP LLC, a California limited liability company
Its: Administrative General Partner

By: Community Development Partners, a California benefit corporation,
Its: Manager

Kyle Paine, President

By: Casa Aliento Mercy House CHDO LLC, a California limited liability company
Its: Managing General Partner

By: Mercy House CHDO, Inc., a California non-profit public benefit corporation
Its: Manager

Lawrence G. Haynes, Jr., Chief Executive Officer

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)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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.

_____ (Place Notary Seal Above)
Signature of Notary Public

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)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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.

_____ (Place Notary Seal Above)
Signature of Notary Public

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)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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.

_____ (Place Notary Seal Above)
Signature of Notary Public

EXHIBIT A

LEGAL DESCRIPTION

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

PARCELS 1 AND 2, OF PARCEL MAP NO. 22-300-04, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 74, PAGES 9, 10 AND 11, OF INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 200-0-082-220 AND APN: 200-0-082-230

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CITY OF OXNARD
Housing Department
435 S D Street
Oxnard, CA 93030
Attention: Housing Director

No recording fee pursuant to California
Government Code Section 27383

APN: 200-0-082-220 AND APN: 200-0-082-230

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST AFFECTING REAL PROPERTY
WITH ASSIGNMENT OF RENTS
(This Deed of Trust contains an acceleration clause)
(Secures CDBG Promissory Note, Subrecipient Agreement,
and Regulatory Agreement)

This DEED OF TRUST WITH ASSIGNMENT OF RENTS (the "Deed of Trust") is made _____,2025 between Casa Aliento LP, a California limited partnership, herein called TRUSTOR, whose address is 3416 Via Oporto, Suite 301, Newport Beach, CA 92663, to Commonwealth Land Title Company, a California corporation, as trustee, herein called TRUSTEE, and the City of Oxnard, a municipal corporation (the "City"), herein called BENEFICIARY,

WITNESSETH: That Trustor grants to Trustee in Trust, with Power of Sale, that property located at 1245 North Oxnard Boulevard, in the City of Oxnard, which is located in Ventura County, California, as more particularly described in Exhibit A (the "Property") attached hereto and incorporated herein by this reference;

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits.

This grant is made for the purpose of securing the performance of each agreement of Trustor incorporated by reference or contained herein; and performance of that certain Subrecipient Agreement For CDBG Grant Funds of even date herewith, that certain City of Oxnard CDBG Regulatory Agreement and Restrictive Covenants of even date herewith, and that certain City of Oxnard Community Development Block Grant Program Promissory Note Secured by Deed of Trust dated _____, 2025, in the face amount of $792,999 made by Trustor to the order of the Beneficiary. This Deed of Trust secures all obligations of each of the foregoing agreements. Any default in the performance of obligations under any of such agreements is a default under each of the agreements and is a default hereunder, and entitles Beneficiary and Trustee to exercise all rights and remedies herein described.

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the fictitious deed of trust recorded in Orange County August 17, 1964, and in all other counties August 18, 1964, in the book and at the page of

Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	1288	556	Madera	911	136	San Luis Obispo	1311	137
Alpine	3	130-31	Marin	1849	122	San Mateo	4778	175
Amador	133	438	Mariposa	90	453	Santa Barbara	2065	881
Butte	1330	513	Mendocino	667	99	Santa Clara	6626	664
Calaveras	185	338	Merced	1660	753	Santa Cruz	1638	607
Colusa	323	391	Modoc	191	93	Shasta	800	633
Contra Costa	4684	1	Mono	69	302	San Diego Series 5	1964	149774
Del Norte	101	549	Monterey	357	239	Sierra	38	187
El Dorado	704	635	Napa	704	742	Siskiyou	506	762
Fresno	5052	623	Nevada	363	94	Solano	1287	621
Glenn	469	76	Orange	7182	18	Sonoma	2067	427
Humboldt	801	83	Placer	1028	379	Stanislaus	1970	56
Imperial	1189	701	Plumas	166	1307	Sutter	655	585
Inyo	165	672	Riverside	3778	347	Tehama	457	183
Kern	3756	690	Sacramento	5039	124	Trinity	108	595
Kings	858	713	San Benito	300	405	Tulare	25300	108
Lake	437	110	San Bernardino	6213	768	Toulumne	177	160
Lassen	192	367	San Francisco	A-804	596	Ventura	2607	237
Los Angeles	T-3878	874	San Joaquin	2855	283	Yolo	769	16
						Yuba	398	693

shall inure to and bind the parties hereto, with respect to the property above described. Said Agreements, terms and provisions contained in said subdivisions A and B, (identical in all counties, and attached hereto), are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein (provided that in the event any said provision is inconsistent with the language in this Deed of Trust, the language of this Deed of Trust shall control), and Beneficiary may charge for a statement regarding the obligation secured hereby; provided the charge therefore does not exceed the maximum allowed by law.

The Trustor acknowledges receipt of a copy of such provisions of such fictitious deed of trust.

If the Trustor shall sell, convey or alienate said property, or any part thereof, or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, in a manner not allowed by the agreements secured by this Deed of Trust or without the written consent of the Beneficiary being first had and obtained, Beneficiary shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any note evidencing the same, immediately due and payable.

The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be made to it at its address hereinbefore set forth.

Exhibit A is attached hereto and incorporated herein.

(Signature appears on following page)

SIGNATURE OF TRUSTOR

CASA ALIENTO LP, a California limited partnership

By: Casa Aliento CDP LLC, a California limited liability company
Its: Administrative General Partner

By: Community Development Partners, a California benefit corporation
Its: Manager

_____
Kyle Paine, President

By: Casa Aliento Mercy House CHDO LLC, a California limited liability company
Its: Managing General Partner

By: Mercy House CDDO, Inc., a California non-profit public benefit corporation
Its: Manager

_____
Lawrence G. Haynes, Jr. Chief Executive Officer

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)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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.

_____ (Place Notary Seal Above)
Signature of Notary Public

EXHIBIT A

LEGAL DESCRIPTION

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

PARCELS 1 AND 2, OF PARCEL MAP NO. 22-300-04, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, AS PER MAP FILED IN BOOK 74, PAGES 9, 10 AND 11, OF INCLUSIVE, OF PARCEL MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN: 200-0-082-220 AND APN: 200-0-082-230

Agreement #A-8569

CITY OF OXNARD
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
PROMISSORY NOTE SECURED BY DEED OF TRUST

$792,999 **Oxnard, California** **_____, 2025**

FOR VALUE RECEIVED, Casa Aliento LP, a California limited partnership ("Subrecipient"), whose address is 3416 Via Oporto, Suite 301, Newport Beach, CA 92663, hereby promises to pay to the order of the City of Oxnard, a municipal corporation ("City"), whose address is 435 South D Street, Oxnard, California 93030, the principal amount equal to Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999), or so much thereof as may be advanced by City to Subrecipient, together with interest thereon, as set forth below.

1. **PURPOSE.** In order to assist Subrecipient in developing sixty-nine (69) units of permanent supportive rental housing for persons experiencing homelessness or who are at-risk of homelessness and one (1) manager's unit located at 1245 N. Oxnard Blvd, Oxnard, California ("Project"), City has agreed to loan to Subrecipient the amount of Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999) to cover the costs of rehabilitation activities in furtherance of the Project, which amount is derived from funds received by the City from the United States Department of Housing and Urban Development through the Community Development Block Grant Program ("CDBG Funds").

2. **SUBRECIPIENT'S OBLIGATION.** This promissory note ("Note") evidences Subrecipient's obligation to pay City the principal amount of Seven Hundred and Ninety-Two Thousand Nine Hundred and Ninety-Nine Dollars ($792,999)) ("Loan") for the CDBG Funds loaned to Subrecipient by City for the specific uses designated in that certain Subrecipient Agreement for CDBG Grant Funds by and between Subrecipient and City of even date herewith ("Subrecipient Agreement") and that certain CDBG Regulatory Agreement and Restrictive Covenants by and between Subrecipient and City of even date herewith ("Regulatory Agreement"). This Note is secured by a Deed of Trust and Assignment of Rents by Subrecipient in favor of City of even date herewith ("Deed of Trust," and collectively with this Note, the Subrecipient Agreement and the Regulatory Agreement, the "CDBG Loan Documents").

3. **INTEREST.** Subject to Section 4, this Note shall bear simple interest at the rate of three percent (3%) per annum from the date of the first disbursement under the Subrecipient Agreement. Interest is not compounding.

4. **DEFAULT INTEREST.** In the event of default by Subrecipient of any of its obligations under the CDBG Loan Documents, Subrecipient shall pay to City interest on the outstanding principal of this Note, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law, in addition to the interest rate provided in Section 3 above, from the date of the event of default until the date that the event of default is cured or the Loan is repaid in full. The default interest shall be paid monthly and is due to the City on the first day of each month.

5. **AMOUNT AND TIME OF PAYMENT.** The principal and interest of the Loan shall be due and payable on the earlier of: (a) fifty-five (55) years from the date of the recordation of a notice of completion issued for the Project, or (b) the date the Property is sold or otherwise transferred, except, if Subrecipient is a limited partnership and the affordability covenants are maintained for the duration of the original City affordability period, for a transfer to the general partner(s) of the Subrecipient or, a City approved affiliate thereof, or (c) Subrecipient has failed to commence Project activities as set forth in Section VII of the Subrecipient Agreement, or (d) an event of default by Subrecipient which has not been cured as within thirty (30) days after notice thereof by City or such longer period if so specified by the City. Annual loan payments on the Loan shall be made in accordance with Section 7 hereof. In the event of default by Subrecipient which has not been cured as provided herein, the principal and all current and accrued interest shall be due and payable in accordance with Section 9 of this Note. In any event, the principal and all current and accrued interest shall be due and payable no later than December 31, 2080.

6. **DEFINITIONS.** Unless otherwise defined, all capitalized terms in this Note shall have the definition ascribed to such terms in the Subrecipient Agreement.

a. "**ANNUAL FINANCIAL STATEMENT**" means the financial statement for each calendar year prepared at Subrecipient's expense and prepared under accounting principles generally accepted in the United States of America and audited by Certified Public Accountants reasonably acceptable to City, which shall form the basis for determining the Residual Receipts.

b. **"ANNUAL OPERATING EXPENSES"** means with respect to a particular calendar year the following costs reasonably and actually incurred for operation and maintenance of the Project, using generally accepted accounting principles: debt service currently due on a non-optional basis (excluding debt service due from Residual Receipts, cash flow or surplus cash of the Development) on loans associated with development of the Project and approved by the City; property and other taxes and assessments imposed on the Project; premiums for property damage and liability insurance; utility services not paid for directly by tenants, including water, sewer, trash collection, gas, and electricity; maintenance and repair, including but not limited to, pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial supplies and maintenance oversight fee; any annual license or certificate of occupancy fees required for operation of the Project; general administrative expenses including, but not limited to, advertising and marketing, security services and systems, professional fees for legal, audit, accounting and tax returns; bookkeeping fees, property management fees not to exceed eight percent (8%) of Gross Revenues from the Project plus reimbursements including on-site manager costs and reimbursements which are standard in the industry; any fees or costs in connection with resident/social services provided to tenants; social services oversight fee in a reasonable amount given comparable fees for such services at that time; cash deposited into a reserve for capital replacements of Project

improvements in such reasonable amounts as are approved by Senior Lenders to the Project, any current and accrued fee for managing the Subrecipient entity, paid to the manager of the Subrecipient, in an annual amount of Twenty Thousand Dollars ($20,000) a year (or partial year) of the Project's operations, increasing annually by three percent (3%); payment of any previously unpaid portion of the Development Fee due (with interest at a rate not to exceed the applicable federal rate) not exceeding a cumulative amount of the Development Fee as allowed by HCD; cash deposited into an operating reserve in such reasonable amounts as are approved by Senior Lenders to the Development; extraordinary operating costs specifically approved by the City; and other ordinary and reasonable operating expenses not listed above. Annual Operating Expenses shall not include the following: depreciation, amortization, depletion or other non-cash expenses or any amount expended from a reserve account. The Annual Operating Expenses shall be reported in the Annual Financial Statement.

c. "**GROSS REVENUE**" means for each calendar year, all revenue, income, receipts, and other consideration actually received by Subrecipient from operation and leasing of the Project. Gross Revenue includes, but is not limited to: (i) all rents, fees and charges paid by tenants, payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements resulting in actual income to Subrecipient; (ii) the proceeds of business interruption or similar insurance; (iii) the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Project (or applied toward the cost of recovering such proceeds); (iv) condemnation awards for a taking of part or all of the Project for a temporary period. Gross Revenue shall exclude tenants' security deposits, loan proceeds, capital contributions or other similar advances.

d. "**RESIDUAL RECEIPTS**" in a particular calendar year shall mean the amount by which Gross Revenue exceeds Annual Operating Expenses.

7. **PAYMENTS**. All accrued interest and principal shall be due and payable in accordance with the terms set forth in Section 5. Commencing on July 1st of the first year after the date of the recordation of a notice of completion issued for the Project, and on July 1st of each year thereafter for the following fifty-five (55) years, Subrecipient shall make an annual Loan payment as follows: (i) while the loans to Subrecipient from the California Department of Housing and Community Development Competitive No Place Like Home Program in the amount of $7,234,582 (the "**Competitive NPLH Loan**"), the California Department of Housing and Community Development Non-Competitive No Place Like Home Program in the amount of $1,600,109 (the "**Non-Competitive NPLH Loan**") and the County of Ventura HOME-ARP Program in the amount of $1,000,000 (the "**HOME-ARP Loan**") are outstanding, (7.46%) of fifty percent (50%) of Residual Receipts for the previous calendar year; and (ii) at such time as the Competitive NPLH Loan, the Non-Competitive NPLH Loan and the HOME-ARP Loan have been fully satisfied, (100%) of fifty percent (50%) of Residual Receipts for the previous calendar year (each, an "**Annual Payment**"). The Subrecipient shall provide the City with any documentation reasonably requested by the City to substantiate the Subrecipient's determination of the Gross

Revenue, Annual Operating Expenses, and Annual Payment. The City shall apply all Annual Payments first to accrued interest, and second to principal. In the event that the City determines that there is an understatement in the amount of an Annual Payment due to City, Subrecipient shall promptly pay to City such understatement, but in any event, no later than within twenty (20) days of notice of such understatement. In the event that City determines that there has been an overpayment in an Annual Payment due to City, City shall pay to Subrecipient the amount of overpayment promptly, but in any event, within twenty (20) days of such determination. If contested, Subrecipient has the right to pay under protest and request an audit by an independent CPA. On or before each Annual Payment the Subrecipient shall submit its Annual Financial Statement to City for the preceding calendar year together with the required Annual Payment for the preceding calendar year and each Payment Date thereafter until the Loan is paid in full or otherwise terminated. City shall review and approve the percentage amount to be paid by Subrecipient and the Annual Financial Statement, or request revisions, within sixty (60) days after receipt. In the event City fails to approve or disapprove the Annual Financial Statement within the sixty (60) day period, Subrecipient may request a written determination of approval or disapproval following the expiration of such period. In the event City fails to provide a written determination to Subrecipient within ten (10) days following the receipt of Subrecipient's request for determination, the Annual Financial Statement shall be deemed approved.

8. **PLACE AND MANNER OF PAYMENT.** All amounts due and payable under this Note are payable at the office of City at the address set forth above, or at such other place as City may designate to Subrecipient in writing from time to time, in any coin or currency of the United States which on the respective Payment Dates thereof shall be legal tender for the payment of public and private debts.

9. **DEFAULT AND ACCELERATION.** This Note is secured by the Deed of Trust. All covenants, conditions and agreements contained in the Deed of Trust and the Subrecipient Agreement are hereby made a part of this Note. Subrecipient agrees that the principal and all current and accrued interest, shall, at the option of City, be immediately due and payable upon any event of default as defined in the Subrecipient Agreement which has not been cured pursuant to that Subrecipient Agreement, including without limitation the failure of Subrecipient to make any payment when due. Upon any such event of default, City may exercise any other right or remedy permitted under this Note and the CDBG Loan Documents. Notwithstanding anything to the contrary contained in the CDBG Loan Documents, City hereby agrees that any cure of any event of default made or tendered by Subrecipient's limited partners shall be deemed to be a cure by Subrecipient and shall be accepted or rejected on the same basis as if made or tendered by Subrecipient.

10. **PREPAYMENT OF LOAN**. No prepayment penalty will be charged to Subrecipient for payment of all or any portion of the Loan amounts prior to the end of the term described herein. However, prepayment of the Loan during the term of the Regulatory Agreement shall require City approval and shall not affect Subrecipient's obligations under the Regulatory Agreement.

11. **NO OFFSET.** Subrecipient hereby waives any rights of offset it now has or may hereafter have against City, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

12. **WAIVERS.** All presentments, notices of dishonor, and protests are waived by all makers, sureties, guarantors, and endorsers of this Note, if any.

13. **CONSENTS AND APPROVALS.** Any consent or approval of City required under this Note shall not be unreasonably withheld or delayed.

14. **NOTICES.** Except as may be otherwise specifically provided herein, any approval, notice, direction, consent request or other action by City shall be in writing and may be communicated to Subrecipient at the principal office of Subrecipient set forth below, or at such other place or places as Subrecipient shall designate in writing, from time to time, for the receipt of communications from City. Copies of all notices which are sent to Subrecipient under the terms of the Loan Documents shall also be sent the additional parties as listed at the address below.

SUBRECIPIENT:

With copy to:	Casa Aliento, LP 3416 Via Oporto, Suite 301 Newport Beach, CA 92663 Attn: Asset Management
With copy to:	NEF Assignment Corporation, as nominee 10 South Riverside Plaza, Suite 1700 Chicago, Illinois 60606 Attn: General Counsel
And to:	Casa Aliento Mercy House CHDO LLC c/o Mercy House CHDO, Inc. P.O. Box 1905 Santa Ana, CA 92702 Attn: Chief Executive Officer
And to:	Sabelhaus & Strain PC 1724 10th Street, Suite 110 Sacramento, CA 95811 Attn: Stephen A. Strain, Esq.

15. **BINDING UPON SUCCESSORS.** All provisions of this Note shall be binding upon and inure to the benefit of the successors-in-interest, transferees, and assigns of Subrecipient and City.

16. **GOVERNING LAW.** This Note shall be interpreted under and governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

17. **SEVERABILITY.** Every provision of this Note is intended to be severable. If any provision of this Note shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

18. **TIME.** Time is of the essence in this Note.

19. **WAIVER.** Any waiver by City of any obligation in these Loan Documents must be in writing. No waiver will be implied from any delay or failure by City to take action on any breach or default of Subrecipient or to pursue any remedy allowed under the Loan Documents or applicable law. Any extension of time granted to Subrecipient to perform any obligation under the Loan Documents shall not operate as a waiver or release from any of the Subrecipient's obligations under the Loan Documents. Consent by City to any act or omission by Subrecipient shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for City's written consent to future waivers.

20. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this Note must be in writing, and shall be made only if executed by both Subrecipient and City.

21. **NONRECOURSE.** Except as expressly provided in the second paragraph of this Section 21, the Subrecipient, and the Subrecipient's partners, officers, directors, employees and agents shall not have any direct or indirect personal liability for payment of the principal of, or interest on, this Note. The sole recourse of the City with respect to the principal of, or interest on, the Note shall be to the property securing the indebtedness evidenced by the Note. However, nothing contained in the foregoing limitation of liability shall (i) limit or impair the enforcement against all such security for the Note of all the rights and remedies of the City, or (ii) be deemed in any way to impair the right of the City to assert the unpaid principal amount of the Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Note, except as hereafter set forth; nothing contained herein is intended to relieve the Subrecipient of personal liability to the extent of actual damages for (i) Subrecipient's fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges (which are not contested by the Subrecipient in good faith) which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by the Subrecipient other than in accordance with the Deed of Trust; (iv) the material misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent

domain or by reason of damage, loss or destruction to any portion of the Property; (v) the Subrecipient's indemnification obligations under the Subrecipient Agreement; and (vi) payment to the City of any rental income or other income arising with respect to the Property received by the Subrecipient after the City has given notice to the Subrecipient of the occurrence of an event of default and after the expiration of all applicable notice and cure periods, subject to the rights of any City providing a loan secured by the Property to which the City has subordinated the Deed of Trust.

(signature appears on following page)

IN WITNESS WHEREOF, the Subrecipient has executed this Note as of the day and year first above written.

SUBRECIPIENT:

CASA ALIENTO LP, a California limited partnership

By: Casa Aliento CDP LLC, a California limited liability company
Its: Administrative General Partner

By: Community Development Partners, a California benefit corporation
Its: Manager

_____
Kyle Paine, President

By: Casa Aliento Mercy House CHDO LLC, a California limited liability company
Its: Managing General Partner

By: Mercy House CDDO, Inc., a California non-profit public benefit corporation
Its: Manager

_____
Lawrence G. Haynes, Jr. Chief Executive Officer

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. K.9

DATE: February 18, 2025

TO: City Council

FROM: Brenda Lopez, Interim Housing Director, (805) 385-8092, brenda.lopez@oxnard.org

SUBJECT: CDBG and In-Lieu Loan Agreement for Dolores Huerta Gardens Apartments, a 58-Unit Affordable Rental Project located at 2161 Etting Road.

RECOMMENDATION

That the City Council:

1. Adopt a resolution authorizing the Housing Director or Designee to execute a $268,074 CDBG Loan Agreement (32500404) and a $631,900 In-Lieu Loan Agreement (32500406), and any and all related documents thereto, with Etting Road LLC for the construction of fifty-eight affordable rental units located at 2161 Etting Road; and

2. Approve and authorize a budget appropriation of $631,900 from the Affordable Housing In-Lieu Fees Fund to support the $631,900 In-Lieu Loan Agreement.

(As of the date of this City Council agenda being posted there is not yet an outcome from the Februrary 11, 2025 Community Services, Public Safety, Housing and Development Committee)

BACKGROUND

The Dolores Huerta Gardens (DHG) Apartments, formally known as the Etting Road Apartments, is a 58-unit new construction affordable housing project located at 2161 Etting Road. The developer of DHG is Cabrillo Economic Development Corporation (CEDC), a non-profit housing organization that works to provide affordable for sale or for rent housing to low-income households. The project consists of 19 one-bedroom units, 21 two-bedroom units, and 18 three-bedroom units. The project will house 42 farmworker families, 15 veterans, and 1 property manager. The 15 veteran units will consist of 10 disabled veterans and 5 chronically homeless veterans. All of the project's units will serve households with annual incomes between 30 and 50 percent of the area median income for Ventura County and remain affordable for fifty-five years in accordance with the project's funding sources.

The project's design will feature a 2,002 sq ft community building, on-site laundry, a tot lot, and community garden space located in the center courtyard area. In addition, residents will have access to resident and supportive services such as adult education, wellness, and skill building classes and workshops.

CEDC first acquired the DHG project site in September 2015 and received Design Development Review Permit approval for 42 apartments on June 27, 2018 and Density Bonus Permit approval on August 2, 2018, granting them three concessions. The project is located on an All-Affordable Housing Opportunity Program designated site, allowing for a density of up to forty-eight units per acre. On July 1, 2021, CEDC returned to the Planning Commission and received approval for a major modification to their Design Development Review and Density Bonus Permits to increase the number of units from forty-two to fifty-eight units.

CEDC formed Etting Road LLC, a limited liability corporation, with CEDC acting as its sole member and manager, to apply for financing to construct the DHG Apartments. On April 5, 2022 DHG was awarded $1,854,000 in federal HOME

funding from the City and on June 30, 2022 CEDC was conditionally awarded 13 Veterans Administration Supportive Housing project-based vouchers from the Oxnard Housing Authority.

Dolores Huerta Gardens secured all necessary funding to develop the project in September 2022 and started construction on May 15, 2023 with an anticipated construction completion date of August 2024. Unfortunately, the project has faced numerous challenges since the project began which has now delayed the completion of the project to May 2025. Some of these challenges include unforeseen environmental conditions, unknown existing public utilities, excessive weather delays, supply chain issues, cost escalation, and additional construction interest costs, which have resulted in the project exhausting all of its construction contingency.

DISCUSSION

The original development budget for DHG was $42,144,074. The development challenges described in the background section of the report have resulted in the development budget increasing to $43,699,487. Because these development challenges were not anticipated, CEDC only secured enough financing to support its original budget, resulting in a financial gap of $1,555,413. The table below provides more information on the project's current financing commitments.

Development Sources	
Perm Loan Tranche A	$1,493,900
Perm Loan Tranche B	$2,681,300
California Housing and Community Development - Joe Serna Farmworker Program	$5,000,000
California Housing and Community Development - Veterans Housing and Homeless Prevention Program	$2,788,410
City of Oxnard HOME Loan	$1,854,000
County of Ventura Loan	$380,000
Home Depot Grant	$200,000
General Partner Equity	$1,500,000
California Housing and Community Development - Accelerator Program	$26,246,464
Total	**$42,144,074**

To address the funding gap, CEDC has requested $899,974 in funding from the City to assist in closing the gap and complete the development by May 2025. To close the remaining gap, CEDC will either defer their developer fee or apply for Federal Home Loan Bank of San Francisco financing.

On January 21, 2025, City Council approved an amount not to exceed $883,749.80 in Community Development Block Grant (CDBG) funding to support of development of DHG. The final funding amount was contingent on a waiver from the Department of Housing and Urban Development (HUD) allowing funding for retroactive expenses. Since a final determination has not been made and the project must meet its completion deadline, only $268,074 in CDBG program funds will be provided to DHG. This amount is based on CEDC's estimate of CDBG eligible expenses remaining after January 21, 2025 which does not require a HUD waiver.

In an effort to provide the entire funding requested by CEDC, staff also recommends awarding $631,900 from the City's Affordable Housing In-Lieu Fund (In-Lieu Fund). The In-Lieu fund is supported by fees collected by the City from developers who receive City Council approval to pay fees in-lieu of complying with the City's Inclusionary Housing Ordinance. These fees are then used to create affordable housing opportunities in the City by providing loans to developers for the construction of new affordable housing.

The Loan Agreements provide the following terms:

CDBG Loan Agreement

1. Loan Amount of $268,074;
2. The loan will carry a fifty-five year term and charge 3% simple interest;

3. Regulatory Agreement term of five-years; and
4. Repayment of the City Loan will be on a residual receipt's basis.

In-Lieu Loan Agreement:

1. Loan Amount of $631,900;
2. The loan and Regulatory Agreement will carry a fifty-five year term and charge 3% simple interest;
3. Repayment of the City Loan will be on a residual receipt's basis.

The use of CDBG funds requires all units in the development, except for the manager's unit, remain affordable for five years and rented to households with incomes at or below 80 percent of the area median income for Ventura County. The use of In-Lieu funds requires six units in the development remain affordable for fifty-five years and require that the units be rented to households with incomes at or below 50 percent of the area median income. However, all of the project's units will serve households with annual incomes between 30 and 50 percent of the area median income for Ventura County and remain affordable for fifty-five years in accordance with the project's funding sources.CEDC will also be responsible for submitting annual reports to the Housing Department in an effort to ensure compliance with the terms of the loans and regulatory agreements.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

There is no financial impact to the General Fund for adoption of this recommendation. The Housing Department has existing CDBG (Fund 201) appropriations necessary to fund the CDBG Loan Agreement.

Approval of the recommended action will authorize a budget appropriation of $631,900 from the Housing In-Lieu Fees Fund (Fund 360-Subfund7050) available fund balance to fund the In-Lieu Loan Agreement. If approved, the FY 24-25 projected ending fund balance is approximately $1.9 Million.

For Finance Use Only: $268,074 - CDBG Fund 2018105-53600, Project# G2336 - Housing Assistance Loan Grant and $631,900 - Housing In-Lieu Fees Fund (Org. 360-70508105 Obj. 53600 Housing Assist Loan Project #TBD

COMMITTEE OUTCOME

As of the date of this City Council agenda being posted there is not yet an outcome from the Februrary 11, 2025 Community Services, Public Safety, Housing and Development Committee.

Prepared by: Brenda Lopez, Interim Housing Director

ATTACHMENTS

1. Resolution 02.10.2025
2. Attachment 2 - CDBG Loan Documents and Regulatory Agreement 02.10.25
3. In Lieu Loan Documents and Regulatory Agreement 02.10.25

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AUTHORIZING THE HOUSING DIRECTOR OR DESIGNEE TO EXECUTE LOAN AGREEMENTS AND COMPANION NECESSARY DOCUMENTS WITH ETTING ROAD LLC FOR THE DOLORES HUERTA GARDENS PROJECT

WHEREAS, The Housing Department is requesting authorization to enter into and execute CDBG and In-Lieu Loan Agreements, and companion necessary documents related to the Loan Agreements, with Etting Road LLC, a limited liability corporation ("Etting Road LLC"), (as the Project sponsor) in the amount of Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) for the CDBG loan and Six Hundred and Thirty-One Thousand Nine Hundred Dollars ($631,900) for the In-Lieu loan (collectively the " Loan Agreements") to develop fifty-seven (57) units of affordable lower income rental units and one (1) manager's unit at 2161 Etting Road ("Project") in the City which will provide increased affordable housing opportunities in the City; and

WHEREAS, the Loan Agreements will provide the following terms: For the CDBG Loan (a) 3% simple interest; (b) loan agreement term of fifty-five years after issuance of a Notice to Completion for the Project; (c) regulatory agreement term of five years; and (d) repayment of the CDBG Loan will be on a residual receipts basis. For the In-Lieu Loan (a) 3% simple interest; (b) loan and regulatory agreement terms of fifty-five years after issuance of a Notice to Completion for the Project; and (c) repayment of the Loan will be on a residual receipts basis.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OXNARD:

SECTION 1. The above Recitals are hereby incorporated into the operative provisions of this Resolution.

SECTION 2. The City's Housing Director or Designee is authorized to enter into and execute the Loan Agreements, and any necessary amendments thereto, in the amount of Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) for the CDBG Loan and Six Hundred and Thirty-One Thousand Nine Hundred Dollars ($631,900) for the In-Lieu Loan.

SECTION 3. The terms of the Loan Agreements will be as follows: For the CDBG Loan (a) 3% simple interest; (b) loan agreement term of fifty-five years after issuance of a Notice to Completion for the Project; (c) regulatory agreement term of five years; and (d) repayment of the CDBG Loan will be on a residual receipts basis. For the In-Lieu Loan (a) 3% simple interest; (b) loan and regulatory agreement terms of fifty-five years after issuance of a Notice to Completion for the Project; and (c) repayment of the Loan will be on a residual receipts basis.

SECTION 4. The Housing Director or Designee is authorized to execute any other form of document required by any lender, investor, regulator or other third party involved in the transaction, so long as the Housing Director or Designee, in coordination with the City Attorney, determines that the substance of such document(s) does not materially conflict with the substance and intent of this Resolution.

SECTION 5. The City Clerk shall certify the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Oxnard on this ___ day of _____, 2025:

I hereby certify that the foregoing is a true copy of the Resolution adopted by the City Council of the City of Oxnard at a meeting held on the ____ day of _____, 2025 and carried by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Luis Mc Arthur, Mayor

ATTEST:

_____
Lourdes A. López, City Clerk

APPROVED AS TO FORM:

_____
Stephen Fischer, City Attorney

Agreement # 32500404

SUBRECIPIENT AGREEMENT FOR CDBG GRANT FUNDS BETWEEN THE CITY OF OXNARD AND ETTING ROAD LLC FOR OFF-SITE INFRASTRUCTURE COSTS IN SUPPORT OF AFFORDABLE HOUSING DEVELOPMENT IN THE CITY OF OXNARD

This SUBRECIPIENT AGREEMENT FOR CDBG GRANT FUNDS ("Agreement" or "CDBG Subrecipient Agreement") is made and entered into on _____, 2025, by and between the City of Oxnard, a municipal corporation ("City" or "Recipient"), and Etting Road LLC, a California limited liability company ("Subrecipient"), jointly referred to herein as the "Parties."

WITNESSETH

WHEREAS, the City is a Participating Jurisdiction in the funding programs of the federal Department of Housing and Urban Development ("HUD"), and has received funds from HUD pursuant to the Community Development Block Grant program ("CDBG Program") to be used pursuant to applicable federal regulations (24 CFR Part 570); and

WHEREAS, Subrecipient owns that certain real property located at 2161 Etting Road, Oxnard, California 93033, as more particularly described in **Exhibit A** (the "Property"), upon which Subrecipient intends to construct fifty-eight (58) units of affordable housing, including one (1) manager's unit ("Project); and

WHEREAS, the City has approved CDBG funding in the amount of Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) for the purpose of assisting the Subrecipient with the costs of off- site infrastructure related to Subrecipient's development of the Project (the "Work"); and

WHEREAS, this CDBG Subrecipient Agreement sets forth the benefits, entitlements, obligations and responsibilities bestowed upon and agreed to by the Subrecipient in exchange for receiving and using the $268,074 in CDBG Program funds to be used for the Work as described herein; and

WHEREAS, Subrecipient is a "subrecipient" as defined in the Code of Federal Regulations at 24 CFR 570.500(c) and is eligible to perform the Work; and

WHEREAS, according to federal regulations 24 CFR 570.503, before disbursing any CDBG funds to a subrecipient, a written agreement shall be signed by the Recipient and Subrecipient; and

WHEREAS, this CDBG Subrecipient Agreement sets forth the responsibilities of the Recipient and the Subrecipient in accomplishing the objectives of the CDBG Program pursuant to the Housing and Community Development Act of 1974 (the Act), as amended; and

WHEREAS, pursuant to 24 CFR 200, 24 CFR 570.500(c) and 24 CFR 570.501(b), the Recipient may provide CDBG funds to public or private nonprofit agencies, authorities or organizations, or for-profit entities authorized under 24 CFR 570.201(o) (referred to collectively and individually as "subrecipients") to be used by the subrecipients to provide/perform certain eligible services and activities in connection with the Recipient's desire to develop viable urban communities, through community development activities, as specified in 24 CFR 570.200 and 570.202 (a); and

WHEREAS, Recipient agrees to fund the Work activities of the Subrecipient, and the Subrecipient agrees to perform the Work activities hereinafter described in **Exhibit B** – Statement of Work, during the Term of this CDBG Subrecipient Agreement, and otherwise subject to the covenants and conditions hereinafter set forth.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

I. Statement of Work

A. Activity Description

The Subrecipient agrees to perform during the Term of this CDBG Subrecipient Agreement, all CDBG-eligible activities, tasks, obligations, and projects set forth in the Statement of Work attached to this CDBG Subrecipient Agreement as **Exhibit B** and incorporated into this CDBG Subrecipient Agreement by this reference.

The Subrecipient and the City have executed the City of Oxnard CDBG Regulatory Agreement and Restrictive Covenants ("CDBG Covenants") concurrently with this CDBG Subrecipient Agreement. The CDBG Covenants establish a five (5) year compliance period for the Project. During the five (5) year CDBG Covenants compliance period, the Subrecipient shall operate and maintain the Project's site development in conformance with the CDBG Covenants and with the requirements of this CDBG Subrecipient Agreement. In case of a conflict between the CDBG Covenants and this CDBG Subrecipient Agreement, the more restrictive covenants, standards, and/or requirements shall apply.

The Statement of Work includes a description of the Work, tasks to be performed, a schedule and a budget for the Work. The Subrecipient may request a modification of the Work activities, tasks, schedule or budget in writing to the Recipient. The Recipient shall review each request to modify the activities, tasks, schedule, or budget on a case-by-case basis and will respond to the Subrecipient within thirty (30) calendar days of the request.

B. National Objectives

All activities and projects funded with CDBG funds must meet one of the CDBG Program's National Objectives: (1) to primarily benefit low- and moderate-income persons; (2) to aid in the prevention or elimination of slums or blight; or (3) to meet community development needs having a particular urgency, as defined in 24 CFR 570.208.

C. Level of Accomplishment – Goals and Performance Measures

The Subrecipient certifies that the Work carried out pursuant to this CDBG Subrecipient Agreement will meet the CDBG Program national objective of primarily benefitting low- and moderate-income persons (income eligible persons or households). It is intended for the CDBG funds to be used to fund the costs of off-site infrastructure improvements in furtherance of Subrecipient's development of the Project. CDBG Program effectiveness is measured through an on-going evaluation of activities, and the Subrecipient agrees to perform the Work according to the goals set forth in **Exhibit B**.

D. Staffing

Any changes in key personnel assigned or their general responsibilities during the performance of the Work, as described in **Exhibit B**, must be reported to the Recipient.

E. Performance Monitoring

The Recipient will monitor the Subrecipient's performance against goals and performance standards, as stated above. Substandard performance, as determined by the Recipient, will constitute noncompliance with this CDBG Subrecipient Agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the Recipient, Agreement suspension and/or termination procedures (*i.e.*, default proceedings) will be initiated by the Recipient.

Activities, tasks, schedule, and reporting requirements related to the Work are described in Section 21 (Records and Reports) and in **Exhibit B**, Sections 2 and 3. In the event that the Work will not be completed as scheduled, the Subrecipient shall notify the Recipient of the completion deficiencies and that said deficiencies shall be corrected within forty-five (45) calendar days. Failure of the Subrecipient to correct the deficiencies within forty-five (45) calendar days will require the Recipient to schedule a Work Review Conference pursuant to Section 8 (Work Review Conference).

The Recipient will use the Subrecipient's performance reports to monitor the performance of activities and delivery of services under this CDBG Subrecipient Agreement. In addition, the Recipient's representative may visit the Subrecipient's offices to inspect the records required by

HUD to be maintained in order to document the CDBG-funded activities, services and expenditures. These records include copies of the original source documentation that tracks the performance of the off-site infrastructure activities, documents the on-going provision of affordable housing to low- and moderate-income persons / households, demonstrates that the program clients are eligible to receive HUD-funded services, and verifies that funds were expended to perform the activities described in item 1.A., "Activity Description," above.

On-Going Project Operation tasks, schedule and reporting requirements related to the five (5) year compliance period are described in **Exhibit B**, Section 4 (On-Going Project Operation) and in the CDBG Regulatory Agreement. Deficiencies in the Subrecipient's performance and/or of Project compliance, as determined by the Recipient at its sole discretion, may cause the Recipient to implement a thirty (30) day notice and cure period.

II. Payment for Activities and Services

The Recipient shall reimburse the Subrecipient for the activities and services performed by the Subrecipient pursuant to the Scope of Work in **Exhibit B** and in accordance with the conditions and terms set forth in the "Schedule of Compensation" attached hereto as **Exhibit C**. The compensation shall be paid at the time and manner set forth in **Exhibit C**. The Reimbursement Amount shall constitute reimbursement only for allowable costs incurred as a result of the Work activities. The Parties understand and agree that reimbursement of Work costs shall be conditioned upon the Recipient's receipt of CDBG Program funds from the federal government, as set forth in Section 3 (Availability of Funds), or accumulation of CDBG Program Income, as set forth in Section 18 (Program Income), and as a result of this CDBG Subrecipient Agreement, and shall not be a charge on any other funds of the Recipient. Recipient represents that it currently has Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) from the designated sources set aside and will continue to keep such funds set aside to fully reimburse Subrecipient pursuant to the terms of this Agreement.

All requests for reimbursement shall be submitted as per Section 17 (Fiscal Control) for costs incurred under this CDBG Subrecipient Agreement, along with one (1) set of copies of original source documentation supporting the expenditures by the Subrecipient for the Work identified in **Exhibit B** – Statement of Work, which shall be submitted to the Recipient in such form acceptable to the Recipient in its sole and absolute discretion. Such documentation shall be submitted prior to any payment, in whole or in part, by the Subrecipient of the Reimbursement Amount.

III. Availability of Funds/Modifications

The Recipient's provision of funding to the Subrecipient pursuant to this CDBG Subrecipient Agreement is contingent on the availability of CDBG funds and continued federal authorization for CDBG program activities, and is subject to amendment or termination due to lack of funds or authorization. Recipient represents that it currently has Two Hundred and Sixty-

Eight Thousand Seventy-Four Dollars ($268,074) from the designated sources set aside and will continue to keep such funds set aside to fully reimburse Subrecipient pursuant to the terms of this Agreement. This CDBG Subrecipient Agreement is subject to written modification and termination as necessary by Recipient in accordance with requirements contained in any future Federal legislation, regulations or Recipient policy. All other modifications must be in written form and approved by both Parties.

IV. Obligation of Funds

The Subrecipient shall not obligate any funds, incur any costs, or initiate identified project(s), which are the subject of this CDBG Subrecipient Agreement, until all environmental review has been completed and certified by Recipient and Recipient has issued a written "Environmental Assessment" form or has received from HUD an "Authorization to Obligate Funds and Incur Costs."

V. Term of Agreement

The Term of this Agreement shall commence on the date written above and, unless sooner terminated as hereinafter provided, shall terminate fifty-five (55) years from the recordation of a notice of completion issued for the Project. At the conclusion of the Term of this Agreement, all principal and interest are due and payable pursuant to the CDBG Note.

VI. Time for Performance

The Subrecipient shall not perform any work under this CDBG Subrecipient Agreement until Recipient gives the Subrecipient a written approval (which shall serve as an Authorization to obligate funds and incur costs). All activities and services required of the Subrecipient under this CDBG Subrecipient Agreement shall be completed as established in Section VII of this CDBG Subrecipient Agreement.

VII. Timely Completion and Expenditure

Timely completion of the Work is the highest priority of this CDBG Subrecipient Agreement. To ensure timely completion and expenditures, the Subrecipient will demonstrate reasonable progress by:

A. No earlier than January 21, 2025 the Subrecipient shall commence Work activities as described in **Exhibit B**. This commencement date may be extended only with prior written approval by the Housing Director or Designee in conformance with Section 8 (Work Review Conference).

B. No later than June 30, 2025, the Subrecipient shall complete all Work activities as described in **Exhibit B**. This completion schedule may be extended only with prior written approval by the City in conformance with Section 8 (Work Review Conference) but shall in no event be extended beyond December 31, 2025. $268,074 in CDBG funds authorized under this CDBG Subrecipient Agreement must be expended by Subrecipient **by no later than April 21, 2025**. Additionally, all requests for reimbursements along with documentation to support expenditures being reimbursed with CDBG funds must be submitted by Subrecipient to City staff **by no later than April 21, 2025**. Failure to meet the April 21, 2025 expenditure and supporting documentation deadline, may result in a loss of any undisbursed CDBG funds.

Failure to meet established performance goals and standards and/or noncompliance with applicable rules and regulations shall constitute non-compliance with the terms of this Agreement. If the Recipient, in its sole discretion, determines that the Subrecipient fails to meet the performance goals and standards of this CDBG Subrecipient Agreement then pursuant to Section 8 (Work Review Conference) the Recipient may schedule a Work Review Conference and require the Subrecipient to promptly develop and submit a remediation plan to the Recipient for review and approval.

VIII. Work Review Conference:

In the event that quarterly reports required by Section 21 (Records and Reports) indicate the CDBG Program funds will not be expended by April 21, 2025, and/or that the Work as described in **Exhibit B** will not be completed by June 30, 2025, the Subrecipient will notify the Recipient of the completion deficiencies and correct the deficiencies within forty-five (45) calendar days. Failure of the Subrecipient to correct the deficiencies within forty-five (45) calendar days will require the Recipient to schedule a Work Review Conference.

The Work Review Conference will serve to identify reasons for delayed performances and weaknesses. Based on the Work Review Conference discussions, both the Recipient and the Subrecipient will generate a remediation plan that may include but is not limited to re-design of the Work, amendments to the Work activities, extending the term of the Work activities, or re-allocation of the funds to another eligible CDBG project. Approval of said remediation plan shall be at the sole discretion of the City and shall be in conformance with all applicable CDBG Program and HUD regulations.

Failure to comply with this remediation plan and/or this CDBG Subrecipient Agreement will trigger administrative requirements in accordance with 2 CFR Part 200.338 and 2 CFR Part 200.305(b) (6). In addition, such failure shall constitute an event of default under the CDBG Deed of Trust and CDBG Note.

IX. Compensation and Method of Payment

For performance of the Work activities described in **Exhibit B**, the Recipient shall

reimburse the Subrecipient an amount not to exceed Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) ("Reimbursement Amount"), which shall constitute full and complete compensation hereunder for the Work activities. The Reimbursement Amount will only be paid if reimbursable from the federal government under the Housing and Community Development Act of 1974 for the amount indicated above, or from CDBG program income, as described in 24 CFR 570.500(a), and accumulated as a result of this Agreement. The Reimbursement Amount shall constitute reimbursement only for allowable costs incurred as a result of the Work activities described in **Exhibit B**.

The Parties understand and agree that such reimbursement, if any, shall be conditioned upon the Recipient's receipt of CDBG program funds from the federal government or accumulation of CDBG program income, as set forth in Section 18 (Program Income) and as a result of this Agreement, and shall not be a charge on any other funds of the Recipient. The Subrecipient shall use the Payment Request Form (**Exhibit D** of this Agreement) for reimbursement purposes.

All reimbursement requests shall be submitted via the Request for Payment Form supporting the invoice for costs incurred under this Agreement, along with one (1) set of copies of all original source documentation supporting the expenditures by the Subrecipient for the Work activities, which shall be submitted to the Recipient in such form acceptable to the Recipient in its sole and absolute discretion. Such supporting documentation shall be submitted prior to any payment, in whole or in part, by the Recipient of the Reimbursement Amount.

X. Designated Representative

A. The Recipient's representative is as follows:

Name and Title: City of Oxnard

Address:

Housing Department
435 S D Street
Oxnard, CA 93030
Attention: Housing Director

B. The Subrecipient's representative(s), who shall be responsible for job performance, negotiations, contractual matters, and coordination with the Recipient Representative is as follows:

Name and title: Derrick Wada
Director of Real Estate Development

Cabrillo Economic Development Corporation

Address: 702 County Square Drive, Suite 200
Ventura, CA 93003

The Subrecipient's professional services shall be actually performed by, or shall be immediately supervised by, the Subrecipient's representative.

C. Any party may change such address(es) given above by providing notice in writing to the other parties, and thereafter notices shall be transmitted to the new address(es).

XI. Assurances

The Subrecipient hereby assures and certifies that it has complied with the Housing and Community Development Act, applicable regulations, policies, guidelines and requirements, 2 CFR Part 225, as amended and that it will comply with all applicable Federal, State and local laws and regulations as they relate to acceptance and use of Federal funds for this Federally-assisted program. Also, the Subrecipient represents and warrants with respect to the Statement of Work specified in **Exhibit B** of this Agreement, that it will comply with all of the provisions of 24 CFR Part 570, as applicable. The Subrecipient further represents and warrants that it will comply with any further amendments or changes to said required assurances and certifications, and that during the term of this Agreement it will maintain current copies of said assurances and certifications at the address of the Subrecipient's representative, as provided in Section 10 (Designated Representative).

XII. Compliance

The Subrecipient agrees that it hereby undertakes the same obligations to Recipient that Recipient has undertaken to HUD pursuant to Recipient's CDBG application and certifications. The obligations undertaken by the Subrecipient include, but are not limited to, the obligation to comply with all federal laws and regulations described in Subpart K of 24 CFR Part 570 and specifically with each of the following:

A. The Housing and Community Development Act of 1974 (Public Law 93-383) as amended, and legislative changes contained in the Housing and Urban-Rural Recovery Act of 1983; and the Housing and Community Development Act of 1987, plus all succeeding revisions and amendments to these Acts.

B. Final regulations of the Department of Housing and Urban Development relating to Community Development Block Grants (Title 24, Chapter V, Part 570 of the Code of Federal Regulations commencing with Section 570.1) dated September 6, 1988; and revisions to 24 CFR Part 570 at Subpart J entitled "Grant Administration" and dated March 11, 1988, plus all succeeding revisions and amendments to these regulations.

C. Land Covenants. This CDBG Subrecipient Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Recipient and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

D. Regulations of the Department of Housing and Urban Development relating to environmental review procedures for the Community Block Grant program (Title 24, Subtitle A, Part 58 of the Code of Federal Regulations, commencing at Section 58.1) except that the Subrecipient does not assume Recipient's environmental responsibilities as described in 24 CFR Part 570.604.

E. Environmental Mitigation: The Subrecipient shall implement and monitor all Project mitigation measures approved in the Project's National Environmental Policy Act (NEPA) document prepared by the Recipient. The staff responsible for implementing and monitoring mitigation measures shall be clearly identified in the Project construction plan(s).

F. Title VI of the Civil Rights Act of 1964 (Public Law 88-352) as amended; Title VIII of the Civil Rights Act of 1968 (Public Law 90-284) (affirmatively furthering fair housing) as amended; Section 104(b) and 109 of Title I of the Housing and Community Development Act of 1974 as amended; Section 3 of the Housing and Urban Development Act of 1968 (employment priorities for new hires); 12 U.S.C. 1701u (Economic opportunities for low- and very low-income persons); Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975; Executive Order 11246 as amended by Executive Order 11375 and 12086; Executive Order 11063 as amended by Executive Order 12259; and HUD regulations heretofore issued or to be issued to implement these authorities relating to civil rights, and pursuant to 24 CFR 570.904(d) and 2 CFR Part 200.321:

1. Contracting with Small and Women and Minority Owned Businesses (W/MBE) (2 CFR 200.321). The Subrecipient will take all necessary affirmative steps to assure that minority owned and/or women owned business enterprises and labor area surplus firms are used when possible. Such firms and businesses have 50% or more ownership by an ethnic minority person(s) and/or by woman/women. All construction projects receiving HUD funds and all contractors and subcontractors who receive $10,000 or more in HUD funds shall fulfill these hiring requirements. These steps are in addition to full and open competition and must include, at a minimum, the following six affirmative steps:

a) Solicitation Lists. Subrecipient must place small and minority businesses and women's business enterprises on solicitation lists (2 CFR 200.321(b)(1);

b) Solicitation. The Subrecipient must assure that it solicits small and minority businesses and women's business enterprises whenever they are potential sources (2 CFR 200.321(b)(2);

c) Dividing Requirements. Subrecipient must divide total requirements when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses and women's business enterprises (2 CFR 200.321(b)(3);

d) Delivery Schedules. The Subrecipient must establish delivery schedules where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises (2 CFR 200.321(b)(4);

e) Obtaining Services and Assistance. The Subrecipient must use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce (2 CFR 200.321(b)(5); and

f) Prime Contractor Requirements. The Subrecipient must require the prime contractor, if subcontractors are anticipated or let, to take the five affirmative steps as described in (a) through (e) above (2 CFR 200.321(b)(6).

G. Economic Opportunities for Low- and Very Low-Income Persons (24 CFR Part 135) Non-Public Housing Authority entities that obligate or commit to spend over $200,000, or any individual contractor or subcontractor that receives $100,000 of covered funds on projects involving housing construction, demolition, rehabilitation, or other public construction is required to comply with Section 3 of the Housing and Urban Development Act of 1968, hereinafter referred to as "Section 3 (HUD)".

The purpose of the Section 3 (HUD) is to ensure that employment and other economic opportunities generated by the U.S. Department of Housing and Urban Development (HUD) assistance or HUD assisted project covered by Section 3 (HUD), shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The Subrecipient shall insure that all Section 3 (HUD) covered contracts (where $100,000 or more in HUD funds are used to reimburse a contractor or subcontractor for work) shall include the following clause:

1. The work to be performed under this CDBG Subrecipient Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u and the implementing regulations at 24 CFR 135 (Economic Opportunities for Low-And Very Low-Income Persons). The purpose of Section 3 (HUD) is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 (HUD), shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. As evidenced by its execution of this Agreement, the Subrecipient certifies that it is under no contractual or other impediment that would prevent it from complying with the part 135 regulations.

3. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 (HUD) clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall contain the Section 3 (HUD) preference, shall set forth: (1) the minimum number and job titles subject to hire; (2) availability of apprenticeship and training positions; (3) the qualifications for each, and the name and location of the person(s) taking applications for each of the positions; and (4) the anticipated date the work shall begin.

4. The Contractor agrees to require this Section 3 (HUD) clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 (HUD) clause, upon a finding that a subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor shall not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.

5. By its signature to this Agreement, the Contractor will certifies that any vacant employment positions, including training positions, that are filled (1) after the Contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.

6. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.

H. The Labor Standards Regulations set forth in Section 570.603 of 24 CFR Part 570; and HUD Handbook 1344.1. If this Agreement involves construction or facility improvements exceeding $2,000 awarded by the Recipient, the Subrecipient agrees to comply with:

Prevailing Wages: Requirements of the Secretary of Labor in accordance with the Davis-Bacon Act (40 USC 276a to 276 a-7) as supplemented in the Department of Labor regulations (29 CFR Part 5) applies. If there is a difference between the minimum wage rates predetermined by the Secretary of Labor and the prevailing wage rates determined to be applicable to this contract by the Director of the California Department of Industrial Relations for similar classifications of labor, the Subrecipient and its contractor and subcontractors shall pay not less than the higher wage rate.

The Subrecipient agrees that, except with respect to the rehabilitation of residential property designed for residential use for less than eight (8) households, all contractors engaged under contracts in excess of $2,000.00 for construction, renovation or repair of any building or work financed in whole or in part with assistance provided under this Agreement, shall comply with federal requirements adopted by the Recipient pertaining to such contract, and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 3, 1, 5 and 7 governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Subrecipient of its obligation, if any, to require payment of the higher wage. The Subrecipient shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions meeting the requirements of this paragraph, for such contracts in excess of $10,000.00.

Copeland Anti-Kickback Act: During the performance of this Agreement, the Subrecipient and its contractors and subcontractors agree to comply with the Copeland Anti-Kickback Act (18 USC 874) as supplemented in the Department of Labor regulations (29 CFR Part 3). This act provides that the Subrecipient, its contractor and subcontractors shall be prohibited from inducing any person employed in the construction, completion, or repair of public facilities to give up any part of the compensation which they are otherwise entitled.

The Subrecipient, its contractor and subcontractors shall maintain documentation that demonstrates compliance with hour and wages requirements of this part. Such documentation shall be made available to the Recipient for review upon request. The Subrecipient's contractor and subcontractors agree to include a provision requiring such compliance in its lower tier covered contracts and transactions.

Agreements exceeding $100,000 that involve the employment of mechanics or laborers shall comply with the following:

Contract Work Hours and Safety Standards Act: Where applicable, during the performance of this Agreement, all contracts awarded by the Subrecipient, the prime contractor and subcontractors in excess of $2,000 for construction contracts and in excess of $100,000 are required, pursuant to the Contract Work Hours and Safety Standards Act, to apply the four clauses below. These clauses shall be inserted in addition to the clauses required by 29 CFR Part 5.5(a) or 29 CFR Part 4.6. As used in this section, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in Section 1 above , the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.

3. Withholding for unpaid wages and liquidated damages. The Recipient shall upon its own action or upon written request of an authorized representative of the U.S. Department of Housing and Urban Development (HUD) or the U.S. Department of Labor (DOL) withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in Section 2 above.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in Sections 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in Section 1 through 4 of this section.

Bonding Requirements. For construction or facility improvements contracts or subcontracts exceeding the Simplified Acquisition Threshold ($150,000) the Recipient may accept the bonding policy and requirements of the Subrecipient provided that the Recipient has made a determination that the CDBG funds are adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

a) Bid Guarantee. At the submission of a bid to the Subrecipient, the contractor shall furnish a "bid" guarantee equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

I. Equal Employment Opportunity. During the performance of this Agreement, the Subrecipient agrees it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, and hereby promises to comply with the provisions on contractor agreements contained in Presidential Executive Order #11246 as amended by Executive Order 11375 and as approved by the Department of Labor Relations (41 CFR Part 61).

J. CFR Part 200 entitled Uniform Administrative Requirements Cost Principles and Audit Requirements for Federal Awards, Administrative regulations, including, but not limited to, applicable Sections of Department of Housing and Urban Development regulations located at: 24 CFR 92.505 – Uniform Administrative Requirements. Pursuant to 24 CFR 92.505, the Subrecipient will comply with the requirements of 2 CFR part 200, except that the following provisions shall not apply: §§ 200.306, 200.307, 200.308 (not applicable to participating jurisdictions), 200.311 (except as provided in § 92.257), 200.312, 200.329, 200.333, and 200.334. The provisions of 2 CFR 200.305 apply as modified by § 92.502(c). If there is a conflict between definitions in 2 CFR part 200 and 24 CFR part 570, the definitions in 24 CFR part 570 shall govern.

K. The following laws and regulations relating to preservation of historic places: Public Law 89-665 the Archaeological and Historical Preservation Act of 1974 (Public Law 93-291), and Executive Order 11593 including the procedures prescribed by Advisory Council on Historic Preservations in 36 Code of Federal Regulations, Part 800.

L. The Architectural Barriers Act of 1968 (42 U.S.C. Section 4151 and the Americans with Disabilities Act of 1990 (ADA).

M. The Hatch Act relating to the conduct of political activities (Chapter 15 of Title 5, U.S.C.).

N. The Flood Disaster Protection Act of 1973 (Public Law 93-234 and the regulations adopted pursuant thereto) Section 202(a) and the regulations in 44 CFR parts 59 through 79.

O. The Clean Air Act (42 U.S.C. Chapter 85) and the Federal Water Pollution Control Act, as amended (33 U.S.C. Section 1251 et seq.) and the regulations adopted pursuant thereto.

P. Executive Order 12372, which requires State Clearinghouse review and comment of any CDBG project for the planning, construction, reconstruction, and/or installation of water or sewer facilities.

Q. Section 401(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831 (b)).

R. Debarment and Suspension. An agreement or contract must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM) database, in accordance with 2 CFR 180 that implements Executive Orders 12549 and 12689, "Debarment and Suspension." Provision of 24 CFR Part 570.609, and 24 CFR 5.105(c) for procurement activities regarding use of debarred, suspended, or ineligible contractors or subcontractors and 24 CFR Part 24 for non-procurement activities, regarding use of debarred, suspended, or ineligible contractors or subcontractors. This Agreement is a covered transaction for purposes of 2 CFR 180 and 2 CFR 3000. As such the Subrecipient is required to verify with the Recipient that the Subrecipient, its contractors, subcontractors, its principles (defined at 2 CFR 180.940), or its affiliates (defined at 2 CFR 180.905) are excluded (defined at 2 CFR 180.940) or disqualified (defined at 2 CFR 180.935).

The Subrecipient must comply with 2 CFR 180, subpart C and 2 CFR 3000, subpart C during the term of this Agreement and any other contract that may arise as a result of this agreement. Subrecipient must include a provision requiring such compliance in its lower tier covered contracts and transactions.

If it is later determined that the Subrecipient did not comply with 2 CFR 1800, Subpart C and 2 CFR 3000, subpart C, in addition to remedies available to the Recipient and the Federal Government, may pursue available remedies, including but not limited to suspension and/or debarment.

Contractors excluded, disqualified or otherwise ineligible (e.g., suspension, debarment, or limited denial of participation) for Federal procurement and non-procurement programs per 24 CFR 570.609 shall not be considered for contract award. This applies to any CDBG-assisted contracts for the procurement of goods and services, professional services, public services, and construction activities (prime and sub-prime contractors).

The Subrecipient shall work with the Recipient to verify eligibility for all contractors and subcontractors, its principles or its affiliates are not excluded or disqualified subject to procurement requirements prior to contract award by the Subrecipient. The Subrecipient shall not use a self-certification letter or form signed by the contractor as a substitute for evidence of their eligibility status.

To verify and document a contractor's eligibility the Subrecipient shall check the General Services Administration System for Award Management site (https://www.sam.gov/portal/SAM/#1#1) to assure the contractor's eligibility and shall submit the verification(s) to the Recipient prior to the notification and award of the contract. The Subrecipient shall retain a copy of the verification(s) for their file to verify results for each contractor.

The Subrecipient further agrees to comply with any environmental, procurement, construction, and other guidelines provided by Recipient. All local code regulations must be recognized and services provided must conform to the said standards.

S. Reporting. The Subrecipient also agrees to submit an annual performance and evaluation report no later than 30 days after the completion of the most recent program year showing the status of all activities as of the end of the program year. The purpose of the performance and evaluation report is to assist the Recipient in complying with its reporting obligations under 24 Code of Federal Regulations section 570.507(a) and under 24 Code of Federal Regulations Part 91. The Recipient shall specify the content and format of this report.

T. Rights to Inventions. Per 2 CFR Appendix II to Part 200(F), if the use of CDBG award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the Agreement includes the performance of experimental, developmental, or research work, the Subrecipient must provide for the rights of the Federal Government and the Recipient in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within in the 37 CFR §401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

The regulation at 37 C.F.R. § 401.2(a) currently defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

U. Clean Air Act and the Federal Water Pollution Control Act. If this Agreement involves construction or facility improvements and exceeds $150,000 the following provision is applicable. The Subrecipient shall comply with all applicable standards, orders, or regulations issued under Section 306 of the Clean Air Act (42 USC 7401 – 7671q), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and EPA regulations (40 CFR Part 15), which prohibit the use under nonexempt federal contracts, grants, or loans of facilities included in the EPA List of Violating Facilities. Violations will be reported to the US EPA Administrator for Enforcement (EN-329).

By execution of this Agreement, the Subrecipient, its contractor and subcontractors will be deemed to have stipulated as follows:

1. The Subrecipient, its contractor and subcontractors hereby declare that no person who will be utilized in the performance of this contract has a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act which prohibits them from perform work on a federally funded project.

2. During the performance of this contract, the Subrecipient, its contractor and/or subcontractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q), and the Federal Water Pollution Control Act as amended (33 USC 1251-1387). Violations must be reported to the EPA.

3. That any facility that is or will be utilized in the performance of this Agreement, unless the Agreement is exempt under the Clean Air Act, as amended (42 USC 7401 – 7671q et seq., as amended by Public Law 91-604), and under the Federal Water Pollution Control Act, as amended (33 USC 1251 et seq., as amended by Public Law 92-500), Executive Order 11738, and regulations in implementation thereof (40 CFR 15) is not listed, on the date of this Agreement award, on the EPA List of Violating Facilities pursuant to 40 CFR 15.20.

4. That the Subrecipient, its contractor and subcontractors agree to comply and remain in compliance with all the requirements of Section 114 of the Clean Air Act and Section 308 of the Federal Water Pollution Control Act and all regulations and guidelines listed thereunder.

5. That the Subrecipient, its contractor and subcontractors shall promptly notify the Recipient of the receipt of any communication from the Director, Office of Federal Activities, EPA, indicating that a facility that is or will be utilized for the Agreement is under consideration to be listed on the EPA List of Violating Facilities.

6. That the Subrecipient, its contractor and subcontractors agree to include or cause to be included the requirements of this article in every nonexempt subcontract, and further agrees to take such action as the government may direct as a means of enforcing such requirements.

V. Procurement of Recovered Materials. During the performance of this Agreement, the Subrecipient, its contractor and subcontractors agree to comply with all of the standards, order, and requirements issued under Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 USC 6962). See 2 CFR 200, Appendix II (J), or at 2 CFR 200.322.

The Subrecipient, its contractor and subcontractors shall include the provisions of this article in all subcontracts under the Agreement.

The following provides the clause that the Subrecipient, its contractor and subcontractors can include in contracts meeting the above thresholds:

1. In the performance of this contract, the (name of contractor here) shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired:

a) Competitively within a timeframe providing for compliance with the contract performance schedule;

b) Meeting contract performance requirements; or

c) At a reasonable rice.

2. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines web site:

https://www.epa.gov.gov/smm/comprehensive-procurement-guideline-cpg-program.

The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 CFR 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

W. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and regulations adopted to implement the Act in the Code of Federal Regulations, Title 24, Part 42.

X. The Subrecipient shall comply with all provisions of the Build America, Buy American Act (BABA), as applicable to this project, including but not limited to, ensuring that the construction materials used in the project are produced in the United States. This includes all iron, steel, and manufactured goods, unless an exception is authorized under the law.

XIII. Subcontracts

The Subrecipient shall incorporate the same or substantially equivalent requirements as are contained in this CDBG Subrecipient Agreement in all subcontracts which utilize any CDBG funds and/or support any CDBG program(s) covered by this CDBG Subrecipient Agreement; when program(s) utilize(s) CDBG funds and other funding sources, all funds shall be subject to CDBG regulations. The Subrecipient, by entering into any such subcontract for performance of any portion of the CDBG Program, is not relieved of its responsibilities to Recipient as set forth in this CDBG Subrecipient Agreement.

XIV. Non-Discrimination/Religious Activities

No person with responsibilities in the operation of any project under this CDBG Subrecipient Agreement will discriminate because of race, creed, color, national origin, age, sex, political affiliation, sexual orientation, gender identity, handicap, beliefs, or marital or familial status.

The Subrecipient agrees that funds provided under this CDBG Subrecipient Agreement will not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

The Subrecipient will ensure that every effort is made to provide equal opportunity to every potential minority and women's business vendor, contractor and subcontractor. The Subrecipient will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

XV. Standard of Conduct/Conflict of Interest and Lobbying

No member, officer or employee of the Subrecipient or its designee or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the Project activities during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the process thereof, for work to be performed in connection with the Project activities assisted under this CDBG Subrecipient Agreement.

No member, officer or agent of the Subrecipient shall participate in the selection of the award, or administration of, any Project activities or construction contract supported by Federal funds if a conflict of interest, real or apparent, would be involved.

No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any Project activities, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-assisted activity, or with respect to proceeds from the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this Section, a "covered person" includes any person who is an employee, agent, consultant, officer, or elected or

appointed official of the Recipient, the Subrecipient, or any designated public agency.

By entering into this CDBG Subrecipient Agreement, the Subrecipient certifies:

A. No federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into a cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant loan, or cooperative agreement in accordance with the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments, and HUD's 24 Code of Federal Regulations (CFR) 87.

Furthermore, for Agreements of $100,000 or more shall file the required certification in **Exhibit D**. This certification process also applies to the Subrecipient's contractor and subcontractors contracts, of $100,000 or more, who must certify to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 USC 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Recipient.

B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form LL, "Disclosure Form to Report Lobbying," in accordance with its instructions, and other federal disclosure forms as requested.

C. The Subrecipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

D. Mandatory Disclosures. The Subrecipient must disclose, in a timely manner, in writing to the Recipient all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially effecting the Federal award described in 2 CFR 200.113. Failure to make require disclosures can result in any of the remedies described in 2 CFR 200.338 Remedies for noncompliance, including suspension or debarment.

XVI. Use of Funds for Entertainment, Meals or Gifts

The Subrecipient represents and warrants that it will not use funds provided through the Agreement to pay for entertainment, meals or gifts.

XVII. Fiscal Control

The Subrecipient shall be responsible for the internal control and monitoring of fiscal and programmatic/operational goals and procedures. The Subrecipient shall establish such fiscal controls and fund accounting procedures as required by Federal regulations, or as may be deemed necessary by HUD and Recipient to ensure the proper disbursal of, and accounting for, funds paid to the Subrecipient under the CDBG programs.

Disbursement of Funds: CDBG funds shall generally be disbursed by Recipient to the Subrecipient on a reimbursement basis for actual expenses.

The Recipient agrees to pay the Subrecipient progress payments at the time and in the manner set forth in the Schedule of Compensation, **Exhibit C**. Payment by the Recipient is not to be construed as final in the event HUD disallows reimbursement for the Work or any portion thereof. Source documentation, as specified by the Recipient, supporting the invoice(s) shall be submitted by the Subrecipient with request for payment.

The Subrecipient shall be liable for all amounts which are determined to be due by HUD including, but not limited to, disallowed costs which are the result of the Subrecipient's or its contractor's conduct under this CDBG Subrecipient Agreement.

The Subrecipient shall be notified in writing and shall be permitted to respond regarding any controversy or proceeding between the Recipient and HUD arising from this CDBG Subrecipient Agreement.

All financial transactions must be supported by complete and verifiable source documents. Records shall provide a clear audit trail and shall be maintained as specified in Section 22 (Agreement Responsibility for Monitoring and Records) of this CDBG Subrecipient Agreement.

XVIII. Program Income

Program Income is defined in Subpart J of 24 CFR Part 570.504 and is described as gross income received by the Subrecipient and directly generated from the use of CDBG funds.

Program income includes, but is not limited to, the following:

A. Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG funds;

B. Proceeds from the disposition of equipment purchased with CDBG funds;

C. Gross income from the use or rental of real or personal property acquired by the Subrecipient with CDBG funds, less costs incidental to generation of the income;

D. Gross income from the use or rental of real property owned by the Subrecipient that was constructed or improved with CDBG funds, less costs of the non- CDBG portion;

E. Payment of principal and interest on loans made using CDBG funds except as provided in 24 CFR Part 570.500(a)(3);

F. Proceeds from the sale of loans or obligations secured by loans made with CDBG funds;

G. Interest earned on program income pending its disposition; and

H. Funds collected through special assessments made against properties owned and occupied by households not of low or moderate income where the assessments are used to recover all or part of the CDBG programs portion of a public improvement.

During the effective Term of this CDBG Subrecipient Agreement, the Subrecipient shall report all program income as defined in 24 CFR 570.500(a), generated by activities carried out with CDBG funds under this CDBG Subrecipient Agreement. Program Income may be retained by the Subrecipient subject to the provisions of the Cooperative Agreement, the Act, and its regulations. Any program income retained must only be used for eligible activities in accordance with all CDBG requirements.

It shall be the Subrecipient's responsibility to manage and use the program income in compliance with the standards and requirements set forth in section 570.504(a) & (b) (1) through (b)(3). The transfer of CDBG funds from the Recipient to the Subrecipient shall be adjusted to reflect any program income in accordance with the principles set forth in section 570.504(b) (2) (i) and (ii). In addition, all of the provisions of this CDBG Subrecipient Agreement shall apply to the management and use of the program income.

Recipient shall monitor the use of any program income, requiring appropriate record keeping and reporting by the Subrecipient as may be needed for this purpose, and shall report the use of such program income to HUD. In the event of close-out as defined in section 570.509 of the federal regulations or change of status of the Subrecipient, (*i.e.*, from Subrecipient to entitlement), all program income on hand or received by the Subrecipient subsequent to the close-out or change of status shall be paid to the Recipient.

Program income attributable to projects funded under this CDBG Subrecipient Agreement and on hand with the Subrecipient when this CDBG Subrecipient Agreement expires, is terminated with or without cause, or received after the Agreement expiration, shall be paid to the Recipient as required by 24 CFR Part 570.503(b)(8) when the Subrecipient ceases to be under continuous Agreement with the Recipient for the operation of CDBG programs. As long as there is no break in the CDBG Subrecipient Agreement period, program income shall be governed by the provisions of this Section.

The Project shall continue to meet the CDBG program national objective per 24 CFR 570.208 as required by 24 CFR 570.503(b)(7)(i). If the Project is not used in accordance with 24 CFR 570.503(b)(7)(i) the Subrecipient shall reimburse the Recipient to comply with the requirements of 24 CFR 570.503 (b)(7)(ii).

XIX. Reversion of Assets

A. Reversion of Assets. The five (5) year period set forth in 24 CFR 570.503(b)(7) for compliance with one or more national objectives shall be included and contained within the five (5) year compliance period established by the CDBG Covenants.

B. Upon expiration of this CDBG Subrecipient Agreement, the Subrecipient shall transfer to the Recipient any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Any real property under the Subrecipient's control that was acquired and/or improved in whole or in part with CDBG funds (including CDBG funds provided to the Subrecipient in the form of a loan) in excess of $25,000 shall:

1. Be used to meet one of the national objectives in 24 CFR Part 570.208 until the end of the five (5) year compliance period established by the CDBG Covenants (pursuant to Section 5.B above – Term of Agreement), or the length of time to be further prescribed by mutual agreement of the Parties.

2. Be disposed of in such manner that the Recipient is reimbursed in the amount of the fair market value of the property at the time of disposition of the property less any portion of the value attributable to expenditures of non-CDBG funds for acquisition and/or improvement of such property. The payment is Program Income to the Recipient.

3. If the Subrecipient is a private non-profit organization, the Subrecipient further agrees to a voluntary lien / deed of trust on above-reference property as to any CDBG funds received and that such lien / deed of trust will be notarized and recorded in the Office of the County Recorder. The Subrecipient will utilize the lien / deed of trust form specified by the Recipient, and will be subject to provisions listed in this CDBG Subrecipient Agreement and in the CDBG Covenants.

XX. Procurement/Equipment

Equipment, which shall be defined as tangible, nonexpendable, personal property having a useful life of more than one (1) year and an acquisition cost of $1,000 or more per unit, is eligible for purchase using CDBG funds only upon prior approval of the Recipient and subject to 24 CFR Part 570.207(b)(1). Such equipment shall be used by the Subrecipient in the project for which it was acquired as long as needed, regardless of whether such project continues to be supported by Federal funds; at the time, equipment may be used in other activities currently or previously supported by a Federal agency. Use of such equipment is also subject to provisions of 24 CFR Part 200.313(c). If applicable, the Subrecipient shall also establish procedures for managing equipment, which meet the requirements of 24 CFR Part 200.313(d). Further, proceeds from disposition of such equipment shall be treated as program income as specified in Section 18 (Program Income) of this CDBG Subrecipient Agreement.

XXI. Records and Reports

The Subrecipient agrees to supply to the Recipient, on a quarterly and annual basis, any progress reports and/or other reasonable documentation as may be required by the Recipient to audit performance of the Work activities covered by this CDBG Subrecipient Agreement (and the subsequent Property operational activities) and to enable the Recipient to analyze and evaluate utilization of the CDBG funds by the Subrecipient. The Subrecipient shall maintain separate accounting and financial records for each funding (revenue) source in support of the Work.

A. Payment Request Form: Subrecipient shall submit a Payment Request Form (Exhibit “D”) and copies of the original supporting documents for payment to the Recipient.

B. Progress Reports: Progress reports for Work activities shall address project status and, if applicable, explanation of any problems/delays encountered and/or anticipated and measures to be taken to correct such problems; revised milestones including anticipated schedule for Work completion; and a summary of expenditures, obligations, program income, and drawdown to date. In addition, the Subrecipient shall provide as part of the progress report any citizen comments received during the reporting period relative to the Work, and responses to such comments, and additional information, as needed. Subrecipient shall submit such report quarterly within thirty (30) days of the close of report period including in the event that no expenditures occurred, which shall be documented in the quarterly report.

C. The Subrecipient shall use the CDBG Monitoring Checklist – Housing/Rehab., hereinafter referred to as "the Checklist," to collect and retain all Work documents to provide the Recipient for its records.

D. Completion Report: The Subrecipient shall prepare and submit to the Recipient a Completion Report within thirty (30) days of completion of Work activities covered by this CDBG Subrecipient Agreement. Said report shall consist of an overview and evaluation of the Work activities, a comparison of milestones' progress, total costs incurred, listing of files, listing of personnel, and other reasonable information requested by the Recipient. The Completion Report shall be made as part of the Quarterly Report Form.

E. Annual HUD/Recipient Reports: The Subrecipient shall submit to the Recipient in a timely manner other reports as requested/required by the Recipient for HUD compliance including, but not limited to the Contractor/Subcontractor, EEO-4, and Minority Financial Institution Reports (if applicable), the Affirmative Marketing Report, and provide, as requested by HUD and/or Recipient, information necessary to prepare the any other required reports and/or plans.

F. Audit: The Subrecipient shall be responsible for conducting an annual audit of its CDBG program in compliance with Title 2 CFR Part 200.500 – 200.520 issued pursuant to the Single Audit Act of 1984 and the Single Audit Amendments of 1996, P.L. 98-502, as applicable. A copy of said audit shall be forwarded to the Recipient upon completion. Any costs associated with the annual audit shall be the responsibility of and paid for by the Subrecipient.

If the Subrecipient does not exceed the expenditure limits per 2 CFR Part 200.000-520, the Subrecipient shall provide the Recipient with a copy of the Subrecipient's latest Audit Report.

XXII. Agreement Responsibility for Monitoring and Records

HUD, the Office of the Inspector General (OIG), and the designated representatives of the Recipient, and other appropriate officials shall have access to all personnel records, management information, and fiscal data of the Subrecipient and any agency or contractor with whom the

Subrecipient executes a subcontract necessary to carry out any CDBG program(s) for monitoring purposes (24 CFR 200.328, 200.327 and 200.326). The Subrecipient shall respond in a timely manner to all identified corrective action needs as a result of HUD, Recipient, or other monitoring. The Subrecipient shall submit to Recipient all required reports and monitoring corrective action plans on a timely basis, as delineated by the Recipient. Records shall be maintained as follows:

A. The Subrecipient agrees to retain all pertinent records under the CDBG Program, including financial records, until advised by the Recipient that further retention is unnecessary. Generally, records shall be retained for a period for five (5) years from the end of the Term (see Section 5 above – Term of Agreement) or the fiscal year in which the last project covered by the Recipient's annual agreement with HUD is completed. Records shall be open and available for inspection by auditors and/or other staff assigned by HUD and/or the Recipient during the normal business hours of the subrecipient. If at the end of such five (5) year period, there is ongoing litigation, claims, negotiations, audit or other action involving the Subrecipient's or the Recipient's records, which has started before expiration of the five (5) year period, the Subrecipient will retain the records until the completion of the action and resolution of all issues which arise from it as stated in 2 CFR Part 200.333.

B. Consistent with applicable state and local laws regarding privacy and obligations of confidentiality, the Subrecipient shall furnish and cause each of its own subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts to the Recipient, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein The Subrecipient also must provide citizens with reasonable access to records on the past use of CDBG funds (24 CFR 570.508).

C. Records for nonexpendable property shall be retained for a period of five (5) years after final disposition of the property, if applicable.

XXIII. Inspection Rights

The Subrecipient agrees to allow the Recipient to inspect the Work and the Project at reasonable times upon a minimum 24-hour advance notice.

XXIV. Request for Technical Assistance

The Subrecipient shall refer to the Recipient any regulatory or procedural questions regarding operation of its CDBG program. All formal requests for technical assistance shall be submitted in writing. Requests should specify the problem area, particular assistance being requested and proposed solution if applicable. Informal questions regarding day-to-day program operation may be directed to the designated Recipient representative.

XXV. Hold Harmless and Indemnification

The Subrecipient shall hold the Recipient and the Recipient's officers, employees, agents and volunteers harmless and free from any and all claims, liabilities or expenses, including attorney's fees, arising out of or relating to any negligent act, negligent omission, or other wrongful conduct related in any way to the Subrecipient's performance of the Work pursuant to this CDBG Subrecipient Agreement, provided such claims, liabilities or expenses were not the result of the gross negligence, willful misconduct or fraud of the Recipient or the Recipient's officers, employees, agents or volunteers. In the event the Recipient and/or any of the Recipient's officers, employees, agents or volunteers are named in any lawsuit, or should any claim be made against it or any of them by lawsuit or otherwise arising out of or relating to such negligent act, negligent omission or other wrongful conduct, the Subrecipient shall indemnify them for any judgment rendered against them, any sums paid out in settlement or otherwise, and all costs incurred by them in their defense, including, but not limited to attorney's fees.

The Subrecipient also understands and agrees that it is being employed to perform the services provided for by this CDBG Subrecipient Agreement because of the Subrecipient's professed expertise and experience in performing the Work provided for under this CDBG Subrecipient Agreement. In addition, the Subrecipient understands and agrees that while the Recipient and the Recipient's officers or agents may elect to do so, they have no duty to review, inspect, or supervise the Work performed by the Subrecipient pursuant to this CDBG Subrecipient Agreement, except as otherwise expressly provided for by this CDBG Subrecipient Agreement. As a consequence, the Subrecipient waives any right of contribution against the Recipient or any of the Recipient's officers, employees, agents and volunteers arising out of such failure to inspect, review, monitor or supervise the Work performed by the Subrecipient pursuant to this CDBG Subrecipient Agreement.

XXVI. Insurance

Subrecipient shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Subrecipient, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

A. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury and advertising injury, with limits no less than $1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

B. Automobile Liability: ISO Form Number CA 0001 covering, Code 1 (any auto), or if Subrecipient has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than $1,000,000 per accident for bodily injury and property damage.

C. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than $1,000,000 per accident for bodily injury or disease. If Subrecipient will provide leased employees, or, is an employee leasing or temporary staffing firm or a professional employer organization (PEO), coverage shall also include an Alternate Employer Endorsement (providing scope of coverage equivalent to ISO policy form WC 00 03 01 A) naming the City as the Alternate Employer, and the endorsement form shall be modified to provide that City will receive not less than thirty (30) days advance written notice of cancellation of this coverage provision. If applicable to Subrecipient's operations, coverage also shall be arranged to satisfy the requirements of any federal workers or workmen's compensation law or any federal occupational disease law.

If the Subrecipient maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the contractor.

Professional Liability/Errors and Omissions

Insurance covering Subcontractor's liability arising from or related to this Contract, with limits of not less than $1 million per claim and $2 million aggregate. Further, Subrecipient understands and agrees it shall maintain such coverage for a period of not less than three (3) years following this CDBG Subrecipient Agreement's expiration, termination or cancellation.

Additional Insured Status

The City, its officers, officials, employees, and volunteers are to be covered as insureds on the auto policy with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Subrecipient; and on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Subrecipient including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Subrecipient's insurance (at least as broad as ISO Form CG 20 10, 11 85 or both CG 20 10 and CG 23 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the Subrecipient's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Subrecipient's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the City.

Failure to Maintain Insurance

Subrecipient's failure to maintain or to provide acceptable evidence that it maintains the required insurance shall constitute a material breach of the Agreement, upon which the City immediately may withhold payments due to Subrecipient, and/or suspend or terminate this Agreement. The City, at its sole discretion, may obtain damages from Subrecipient resulting from said breach.

Waiver of Subrogation

Subrecipient hereby grants to City a waiver of any right to subrogation which any insurer of said Subrecipient may acquire against the City by virtue of the payment of any loss under such insurance. Subrecipient agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Deductibles and Self-Insured retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. The City may require the Subcontractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Claims Made Policies

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.

2. Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years after completion of the contract of work.*

3. If coverage is canceled or non-renewed, and not *replaced with another claims made policy form with a Retroactive Date* prior to the contract effective date, the Subrecipient must purchase "extended reporting" coverage for a minimum of *five (5)* years after completion of contract work.

Separation of Insureds

All liability policies shall provide cross-liability coverage as would be afforded by the standard ISO (Insurance Services Office, Inc.) separation of insureds provision with no insured versus insured exclusions or limitations.

Verification of Coverage

Subrecipient shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Subrecipient's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org.

Subcontractors

Subrecipient shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

XXVII. Covenants and Conditions

Each term and each provision of this CDBG Subrecipient Agreement to be performed by the Subrecipient shall be construed to be both a covenant and a condition.

XXVIII. Effect of Termination

For Agreements exceeding $10,000 the following applies:

A. Termination of Agreement for Convenience: In accordance with 24 CFR Part 570.509(e) and 2 CFR 200.339, this CDBG Subrecipient Agreement may be terminated by either party after a thirty (30) days written notice of intention to terminate, setting forth the reasons and the effective date of such termination, has been given to the other party, provided, however, that no notice of termination given by the Subrecipient shall be effective unless HUD has agreed to release Recipient from its obligations pursuant to the program activity(ies) in **Exhibit B** – Statement of Work. Alternatively, this CDBG Subrecipient Agreement will automatically terminate in the event that the United States Government terminates the CDBG programs or terminates the program activity(ies) which is the subject of the Agreement.

B. Termination of Agreement for Cause: In accordance with 24 CFR 570.509(f) and 2 CFR 200.339, the Parties hereto understand that pursuant to the Recipient's execution of the HUD application, the Recipient assumed responsibility as to the performance of the Work. If through any cause the Subrecipient fails to fulfill in a timely and proper manner its obligations under this CDBG Subrecipient Agreement to undertake, conduct or perform the Work identified in this CDBG Subrecipient Agreement, or if the Subrecipient violates any of the covenants, agreements, or stipulations of this CDBG Subrecipient Agreement, the Recipient shall thereupon have the right to terminate this CDBG Subrecipient Agreement by giving written notice of such termination and specifying the effective date thereof at least (5) days before the effective date of such termination. Notwithstanding the above, the Subrecipient shall not be relieved of liability to the Recipient for damages sustained by the Recipient by virtue of any payments to the Subrecipient for the purpose of set-off until such time as the exact amount of damages due the Recipient from the Subrecipient is determined.

C. Upon termination, as stated in subsections A or B above of this CDBG Subrecipient Agreement, the Recipient shall be liable to the Subrecipient only for Work done by the Subrecipient up to and including the date of termination of this CDBG Subrecipient Agreement, unless the termination is for cause, in which event the Subrecipient need be compensated only to the extent required by law. The Subrecipient hereby expressly waives any and all claims for damages for compensation arising under this CDBG Subrecipient Agreement except as set forth in this Section in the event of such termination.

D. If this Agreement is terminated pursuant to this Section, the Subrecipient shall remain responsible for compliance with the requirements in 2 CFR 200.343 (Closeout) and 2 CFR 200.344 (Post-closeout adjustments and continuing responsibilities).

XXIX. Taxpayer Identification Number

The Subrecipient shall provide the Recipient with a complete Request for Taxpayer Identification Number and Certification, Form W-9 as issued by the Internal Revenue Service.

XXX. Modification of Agreement

Except as provided in Section 3 (Availability of Funds), the tasks described in this CDBG Subrecipient Agreement and all other terms of this CDBG Subrecipient Agreement may be modified only upon mutual written consent of the Recipient and the Subrecipient.

XXXI. Use of the term "Recipient"

Reference to "Recipient" in this CDBG Subrecipient Agreement includes the designated Recipient representative, or any authorized representative acting on behalf of the Recipient.

XXXII. Notices

All notices given, or required to be given, pursuant to this CDBG Subrecipient Agreement shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed to each party's designated representative as set forth above in Section 10 (Designated Representative). When addressed in accordance with Section 10, such notice shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual hand delivery. Changes may be made in the names or addresses of persons to whom notices are to be given by giving notice in the manner prescribed in Section 10.C.

Notices shall be sent to the Recipient and to Subrecipient's representative at the addresses shown in Section 10 (Designated Representative).

XXXIII. Permits and Licenses

The Subrecipient, at its sole expense, shall obtain and maintain during the Term of this CDBG Subrecipient Agreement, all appropriate permits, licenses, and certificates that may be required in connection with the performance of Work under this CDBG Subrecipient Agreement, or as specified in Section 39 (Patents & Royalties).

XXXIV. Waiver

A waiver by the Recipient of any breach of any term, covenant, or condition contained in this CDBG Subrecipient Agreement shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained in this CDBG Subrecipient Agreement whether of the same or different character.

XXXV. Violation or Breach Agreement Terms

A breach of any of the stipulations contained in this Agreement may be sufficient grounds

for withholding of progress payments, withholding of final payment, termination of the Agreement, suspension/debarment or any other action determined to be appropriate by the Recipient.

XXXVI. Governing Law

The terms, covenants and conditions of this CDBG Subrecipient Agreement shall be interpreted according to the laws of the State of California. Should litigation occur, venue shall be in the County of Ventura.

XXXVII. Integrated Agreement

This CDBG Subrecipient Agreement represents the entire Agreement between the Recipient and the Subrecipient and all preliminary negotiations and agreements are deemed a part of this CDBG Subrecipient Agreement. No verbal agreement or implied covenant shall be held to vary the provisions of this CDBG Subrecipient Agreement. This Agreement shall bind and inure to the benefit of the Parties to this CDBG Subrecipient Agreement and any subsequent successors and assigns.

XXXVIII. No Assignment without Consent

A. Inasmuch as this CDBG Subrecipient Agreement is intended to secure the specialized services of the Subrecipient, unless a transfer is allowed either (i) in the CDBG Note or (ii) pursuant to subsection B below, the Subrecipient shall not have the right to either (l) assign or transfer this CDBG Subrecipient Agreement, or any part hereof or monies payable hereunder, or (II) modify its own organizational structure, without the prior written consent of the City, which consent will not be unreasonably withheld, and any such assignment or transfer without the City's prior written consent shall be considered null and void.

B. A limited partner(s) may remove and replace the managing general partner of the Subrecipient for cause pursuant the Subrecipient / limited partner agreement. However, the Subrecipient's managing general partner shall not be replaced without prior written approval of the City, and the City shall consider then approve or disapprove such replacement without unreasonable delay.

XXXIX. Patents and Royalties

A. Subrecipient shall provide and pay for all licenses and royalties necessary for the legal use and operation of any of the equipment or specialties used in the Project activities. Certificates showing the payment of any such licenses or royalties and permits for the use of any patented or copyrighted devices shall be secured and paid for by Subrecipient and delivered to the Recipient upon completion of the Project activities, if required.

B. Subrecipient shall assume all costs arising from the use of patented materials, equipment, devices, or processes used in or incorporated in the Project activities and agrees to indemnify and hold harmless the Recipient and its duly authorized representatives from all suits of law, or actions of every nature for or on account of the use of any patented materials, equipment, devices, or processes.

XL. Copyright

Any reports, maps, documents or other materials produced in whole or part by the Subrecipient, its contractor or any subcontractor or person responsible to the Subrecipient under this CDBG Subrecipient Agreement shall be the property of the Recipient and none shall be subject to an application for copyright by or on behalf of the Subrecipient, contractor, subcontractors or any person responsible to the Subrecipient during performance of this CDBG Subrecipient Agreement.

This CDBG Subrecipient Agreement may be executed in counterparts and shall be fully effective as if signed by all parties whether or not the signatures of all the parties appear on the original or on any one copy of this CDBG Subrecipient Agreement.

XLI. Subordination.

A. The Deed of Trust and the Regulatory Agreement shall be subordinated to each Senior Lien described below and to other liens approved by the Housing Director or Designee securing financing set forth in the Approved Financing Plan, if any, but only on condition that all of the following conditions are satisfied:

1. All of the proceeds of the proposed Senior Lien, less any transaction costs, must be used to provide construction and/or permanent financing for the Development.
2. The subordination agreement(s) must be structured to minimize the risk that the Deed of Trust would be extinguished as a result of a foreclosure by the Senior Lender or other holder of the Senior Lien. To satisfy this requirement, the subordination agreement must provide the City with adequate rights to cure any defaults by the Borrower, including: (i) providing the City or its successor with copies of any notices of default at the same time and in the same manner as provided to the Borrower; and (ii) providing the City with a cure period to cure any default.

B. The subordination(s) described in this section may be effective only during the original term of the Senior Lien (including any extension options set forth in the documents evidencing the Senior Loan) and any refinancing of the Senior Lien.

C. "Senior Liens" shall mean liens securing repayment of and regulatory agreements associated with the following loans:

1. First-Citizens Bank & Trust Company (formerly known as Silicon Valley Bank) $31,535,475 construction loan converting to a permanent loan of approximately $4,175,200
2. California Department of Housing and Community Development ("HCD") Joe Serna construction/permanent loan of $5,000,000
3. HCD Accelerator permanent loan of $26,246,464
4. HCD Veterans Housing and Homelessness Prevention Program (VHHP) permanent loan of $2,788,410
5. City HOME construction/permanent loan of $1,854,000
6. County of Ventura construction/permanent loan of $380,000
7. City In Lieu construction/permanent loan of $631,900

[Signatures appear on the following pages]

NOW, THEREFORE, the Parties hereto have caused this CDBG Subrecipient Agreement to be executed and attested by their proper officer thereunder duly authorized, all as of the day first above written.

RECIPIENT:
THE CITY OF OXNARD

Housing Director

SUBRECIPIENT:
ETTING ROAD LLC, a California limited company

By: Cabrillo Economic Development Corporation, a California non-profit public benefit corporation, its sole member and manager

By: Victoria J Brady
Chief Executive Officer

APPROVED AS TO FORM:

Stephen Fischer
City Attorney

APPROVED AS TO INSURANCE:

Michael More
Human Resources/Risk Manager

EXHIBIT A
LEGAL DESCRIPTION

ALL THAT CERTAIN REAL PROPERTY SITUATED IN THE COUNTY OF VENTURA, STATE OF CALIFORNIA, DESCRJBED AS FOLLOWS:

A PORTION OF PARCEL H, SUBDIVISION 72 RANCHO EL RIO DE SANTA CLARA O' LA COLONIA, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF VENTURA COUNTY, IN BOOK 3. MISCELLANEOUS RECORDS AT PAGE 14, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4 INCH IRON PIPE SET IN THE SOUTHERLY LINE OF PLEASANT VALLEY ROAD DISTANT THEREON NORTH 59° 15' 30" EAST 250.73 FEET FROM A 4" X 4" POST SET AT THE MOST WESTERLY CORNER OF SAID PARCEL H; THENCE FROM SAID POINT OF BEGINNING.

1ST: NORTH 59° 15' 30" EAST 424.64 FEET ALONG THE SOUTHERLY LINE OF SAID PLEASANT VALLEY ROAD TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1848; THENCE,

2ND: SOUTH 345.13 FEET TO A NAIL AND METAL TAG STAMPED SGB LS 1848 SET IN THE SOUTH SIDE OF A LARGE EUCALYPTUS TREE IN THE NORTH LINE OF ETTING ROAD; THENCE ALONG SAID NORTH
LINE.

3RD: WEST 365.00 FEET TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1842; THENCE,

4TH: NORTH 128.2 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL RIGHT, TITLE AND INTEREST OF THE GRANTOR IN AND TO ALL OIL, GAS, MINERALS, HYDROCARBONS AND ASSOCIATED SUBSTANCES IN, UNDER OR PRODUCED AND SAVED FROM SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY TO THE SURFACE OF THE PROPERTY OR THE TOP FIVE HUNDRED (500) FEET OF THE SUBSURFACE THEREOF MEASURED VERTICALLY FROM THE SURFACE (COLLECTIVELY "MINERAL RIGHTS") AS RESERVED IN DEED RECORDED SEPTEMBER 10, 2015 AS INSTRUMENT NO. 2015-00136187, OFFICIAL RECORDS OF SAID COUNTY.

APN: 225-0-014-020

EXHIBIT B
STATEMENT OF WORK

1. Description of Work

(a) Off-Site Improvements: The Subrecipient will use the $268,074 in CDBG Program funds to complete off-site infrastructure related to Subrecipient's development of the Project. The Subrecipient will then develop the Project as an affordable housing project. The Subrecipient will manage the Project for a five (5) year compliance period (pursuant to the CDBG Covenants) as affordable apartment units to provide housing to low- and moderate-income persons / households.

(b) On-going Project Operation: The Subrecipient and the City have executed the CDBG Regulatory Agreement and Restrictive Covenants ("CDBG Covenants") concurrently with this CDBG Subrecipient Agreement. The CDBG Covenants establish a five (5) year compliance period for the Project. During the five (5) year compliance period, the Subrecipient shall operate and maintain the Project development in conformance with the CDBG Covenants and with the requirements of this CDBG Subrecipient Agreement. In case of a conflict between the CDBG Covenants and this CDBG Subrecipient Agreement, the more restrictive covenants, standards, and/or requirements shall apply. Project apartment units shall be occupied by income eligible tenants continuously throughout the five (5) year compliance period (pursuant to the CDBG Covenants), to the satisfaction of the Recipient and HUD.

2. Scope of Work: Off-Site Improvements

(a) This CDBG Subrecipient Agreement shall be executed prior to the disbursement of any CDBG funds to the Subrecipient. The Subrecipient agrees that the CDBG Program funds of $268,074 shall be secured through the establishment of a lien in sixth position during construction phase and eighth position during permanent phase of financing on the title of the Property. The Subrecipient agrees to take any and all actions necessary to secure, retain, and defend the position of the City's CDBG lien on the title of the Property as set forth in this subsection (a) unless the City has agreed in writing to a different arrangement within the chain of title and the City has issued its written consent to such a change prior to any such change in title being initiated or put into effect.

(b) No earlier than January 21, 2025, the Subrecipient shall commence Work activities as described in **Exhibit B**. This commencement date may be extended only with prior written approval by the Housing Director or Designee in conformance with Section 8 (Work Review Conference).

(c) No later than June 30, 2025, the Subrecipient shall complete all Work activities as described in **Exhibit B**. This completion schedule may be extended only with prior written approval by the City Housing Director or Designee in conformance with Section 8 (Work Review Conference) but shall in no event be extended beyond December 31, 2025.

(d) If the City, in its sole discretion, determines that the Work fails to comply with the Scope of Work standards and requirements described herein, such failure shall constitute an event of default under the CDBG Deed of Trust and CDBG Note and also this CDBG Subrecipient Agreement.

3. Reporting.

(a) Construction Phase: During the off-site infrastructure construction phase, the Subrecipient shall submit quarterly progress reports to the City describing the progress made towards such off-site improvements. The quarterly reports shall be submitted to the City within 15 days after the end of each quarter.

(b) On-going reporting: See below – Scope of Work: On-Going Project Operation.

4. Scope of Work: On-Going Project Operation.

(a) For each year of the five (5) year compliance period of the CDBG Covenants the Subrecipient shall own, operate and manage the Property in full compliance with all applicable government codes and laws, and to the full satisfaction of the City. The Subrecipient shall provide housing and related services, benefits and assistance to low- and moderate-income persons / households, in compliance with 24 CFR 570.201 and 24 CFR 570.208 of the federal CDBG regulations, throughout the entire five (5) year compliance period.

(b) The Project shall be occupied by income eligible tenants continuously throughout the five (5) year compliance period of the CDBG Covenants, to the satisfaction of the Recipient and HUD. The five (5) year compliance period shall commence upon the date of the recordation of a notice of completion (of construction) issued for the Project.

(c) In conformance with the CDBG Covenants: (i) throughout the entire five (5) year of the CDBG Covenants, the Subrecipient shall provide all beneficiary information in a report format and time schedule that (1) is acceptable to the City, and (2) that enables the City to meet all reporting requirements of HUD and the CDBG Program, and (ii) the Subrecipient shall fully assist and cooperate with the City as the City monitors and audits the Project during the five (5) years of the CDBG Covenants. The Subrecipient shall promptly address and resolve all shortcomings of the Project or defects identified by the City to the City's satisfaction.

(d) During the Term of this CDBG Subrecipient Agreement, the Subrecipient shall retain legal ownership of the Property and of all rights, royalties, profits and proceeds generated or caused by the Property.

(f) Reversion of Assets. The five (5) year period set forth in 24 CFR 570.503(b)(7) for compliance with one or more national objectives shall be included and contained within the five (5) year compliance period established by the CDBG Covenants.

EXHIBIT C
SCHEDULE OF COMPENSATION

1. **Compensation.** Subject to the terms and conditions of this CDBG Subrecipient Agreement, and pursuant to the CDBG Note, the City shall provide to the Subrecipient the amount of Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) of CDBG Program funds to enable the Subrecipient to pay for eligible off-site improvement costs related to development of the Project. In no instance shall the City be liable for Work costs in excess of $268,074, nor for any unauthorized or ineligible costs. The Subrecipient shall not obligate or expend the funds for any purpose other than for the off-site infrastructure set forth herein. Payment for the foregoing shall be in accordance with the following procedure:

(a) Concurrently with this CDBG Subrecipient Agreement, the Subrecipient shall execute a promissory note in favor of the City in the amount of $268,074 ("CDBG Note"), a deed of trust and assignment of rents ("CDBG Deed of Trust"), and a regulatory agreement and restrictive covenants ("CDBG Covenants"). The CDBG Deed of Trust and the CDBG Covenants shall be recorded prior to any payment of CDBG Program funds from the City to the Subrecipient. The CDBG Deed of Trust and the CDBG Regulatory Agreement shall be subordinated to other liens and regulatory agreements ("Senior Liens") on the Project as described in Section XLI. of this Agreement, but only on condition that all of the following conditions are satisfied:

(i) All of the proceeds of the proposed Senior Lien, less any transaction costs, must be used to provide construction and/or permanent financing for the Development.

(ii) The subordination agreement(s) must be structured to minimize the risk that the CDBG Deed of Trust would be extinguished as a result of a foreclosure by the Senior Lender or other holder of the Senior Lien. To satisfy this requirement, the subordination agreement must provide the City with adequate rights to cure any defaults by the Subrecipient, including: (i) providing the City or its successor with copies of any notices of default at the same time and in the same manner as provided to the Subrecipient; and (ii) providing the City with a cure period to cure any default.

(iii) The subordination(s) described in this section may be effective only during the original term of the Senior Lien and any refinancing of the Senior Lien.

The Housing Director or Designee is authorized to execute and form of subordination agreement provided by such Senior Lenders and approved as to form by the City Attorney

(b) The Subrecipient shall submit a completed Subrecipient Payment Request Form (see attached **Exhibit D**) with each payment request. Such payment requests may be submitted no more frequently than on a monthly basis. The Subrecipient shall also submit receipts and other documentation that describe the documents, materials, and activities that will be paid for and/or reimbursed with each specific payment request.

(c) The Subrecipient may not request disbursement of CDBG funds until the funds are needed for payment of eligible costs (i.e., reimbursement of eligible off-site improvement costs).

(d) The CDBG Covenants affecting the Project shall provide for the use of the Property as an affordable housing project that benefits low- and moderate-income persons / households for a compliance period of at least five (5) years.

2. Billing. Subrecipient shall submit an invoice and copies of all original supporting documentation to the Recipient at the following address:

CITY OF OXNARD
Housing Department
435 S D Street
Oxnard, CA 93030
Attention: Housing Director

3. Progress Reports. The Subrecipient shall submit quarterly progress reports to the Recipient.

4. Method of Payment. Payment to Subrecipient of the compensation discussed above shall be based on the submittal and approval of an invoice, and based on conformance with this CDBG Subrecipient Agreement during the Term of this CDBG Subrecipient Agreement. The final disbursement of $1 will occur after final inspection and Project is 100% occupied.

5. Sources and Availability of Funds. It is understood by the parties hereto that the funds being used for the purposes of this CDBG Subrecipient Agreement are funds furnished to the City through HUD pursuant to the provisions of Title 1 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et. seq.) (hereinafter referred to as the "Act"). Notwithstanding any other provision of this CDBG Subrecipient Agreement, the liability of the City shall be limited to the CDBG funds that are available. The Subrecipient understands that the City must wait for the release of funds from HUD before grant funds may be advanced or reimbursed. The City shall incur no liability to the Subrecipient, its officers, agents, employees, suppliers, or contractors for any delay in making any such payments, unless such delay is caused by City's intentional misconduct.

6. Relationship to Grant Agreement. The Subrecipient acknowledges and agrees that this CDBG Subrecipient Agreement is subject to the obligations and limitations imposed on the City by the grant agreement for the CDBG Program ("Grant Agreement") executed by HUD and the City, and by all future amendments to the Grant Agreement, and that this CDBG Subrecipient Agreement is intended to be in conformance and harmony with the Grant Agreement. The Subrecipient further acknowledges that if the Grant Agreement is terminated by the United States Government prior to the implementation by appropriation and/or funding of this CDBG Subrecipient Agreement, then the City shall have the right to terminate or amend this CDBG Subrecipient Agreement by giving

written notice of the termination or amendment of the Agreement to the Subrecipient. The Subrecipient hereby expressly agrees to the provisions of the Grant Agreement and further expressly agrees that nothing in this CDBG Subrecipient Agreement shall be deemed to require the City to perform an obligation in conflict with the Grant Agreement. The Subrecipient further agrees that the City's right to enter into amendments to the Grant Agreement is not, and shall not be restricted or impaired, in any way, by this CDBG Subrecipient Agreement.

4. Reimbursement of Improper Expenditures. If at any time within applicable statutory periods of limitation it is determined by the City or by HUD or its duly authorized representatives, or by the United States Secretary of Treasury or duly authorized representatives that funds provided for under the terms and conditions of this CDBG Subrecipient Agreement have been used by or on behalf of the Subrecipient in a manner or for purposes not authorized or prohibited by the Act or regulations adopted pursuant thereto the Subrecipient shall, at the City's request, pay to the City an amount equal to one hundred percent (100%) of the amount improperly expended.

EXHIBIT D

SUBRECIPIENT PAYMENT REQUEST FORM

ORGANIZATION NAME:

Invoice Number:

Project Name:

Contract Period:

Total Budget:

Billing Period:

Agreement Number: 3XXXXX **HUD Agreement Number: B-XX-MC-06-0534**

Line Item per Category	Budgeted Amount	July 2024	August 2024	September 2024	October 2024	*Month Year*	*Month Year*	*Month Year*	*Month Year*	*Month Year*	*Month Year*	*Month Year*	Project to date Amount	Balance
Position													0.00	0.00
Salaries/wages													0.00	0.00
Employee Benefits													0.00	0.00
Other:													0.00	0.00
[Enter Line Item]													0.00	0.00
													0.00	0.00
													0.00	0.00
													0.00	0.00
													0.00	0.00
													0.00	0.00
													0.00	0.00
Total													**0.00**	**0.00**

Invoice Amount Due: _____

By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).

Authorized Signature: _____ **Date:** _____

Title: _____

Agreement # A-8571

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO: CITY OF OXNARD Housing Department 435 S D Street Oxnard, CA 93030 Attention: Housing Director No recording fee pursuant to California Government Code Section 27383	
APN: 225-0-014-020	SPACE ABOVE THIS LINE FOR RECORDER'S USE

CITY OF OXNARD CDBG REGULATORY AGREEMENT AND RESTRICTIVE COVENANTS

These CITY OF OXNARD CDBG REGULATORY AGREEMENT AND RESTRICTIVE COVENANTS ("CDBG Covenants") are made and entered into on or about _____, 2025, by and between the City of Oxnard, a municipal corporation (the "City" or "Recipient"), and Etting Road LLC, a California limited liability company (the "Subrecipient").

RECITALS

A. The City is a Participating Jurisdiction in the funding programs of the federal Department of Housing and Urban Development ("HUD"), and has received funds from HUD pursuant to the Community Development Block Grant program ("CDBG Program") to be used pursuant to applicable federal regulations (24 CFR Part 570).

B. Subrecipient owns that certain real property located at 2161 Etting Road, Oxnard, California 93033, as more particularly described in Exhibit A (the "Property"), upon which Subrecipient intends to construct fifty-eight (58) units of affordable housing, including one (1) manager's unit (the "Project").

C. The City has provided a loan to the Subrecipient in the amount of Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) for the purpose of assisting the Subrecipient with the costs of off-site infrastructure related to Subrecipient's development of the Project (the "Work").

D. The City and the Subrecipient wish to assure that the Project will be rented continuously to income eligible low- and moderate-income persons / households in conformance with these CDBG Covenants for the entire Term of these CDBG Covenants, as defined below.

E. The purpose of these CDBG Covenants is to regulate and restrict the occupancy, rents, operation, ownership, and management of the Project and its affordable housing units. These CDBG Covenants are intended to run with the land and be binding on the Subrecipient and its successors and assigns in the Property.

F. These CDBG Covenants are subject to the terms and conditions of the CDBG Subrecipient Agreement between the Recipient and the Subrecipient of even date herewith.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged the parties and agree as follows:

ARTICLE I. DEFINITIONS

Section 1.01 "Term" means the five (5) year compliance period during which the Project must meet the affordability requirements imposed under the CDBG Program, commencing upon the date of the recordation of a notice of completion issued for the Project. Regarding the reversion of assets, the five (5) year period set forth in 24 CFR 570.503(b)(7) for compliance with one or more national objectives shall be included and contained within the five (5) year compliance period established by these CDBG Covenants.

Section 1.02 "CDBG Loan" means the loan of CDBG Program funds in the amount of Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) made by the City to the Subrecipient to assist with payment of the cost of the Work pursuant to the CDBG Subrecipient Agreement and the CDBG Note.

Section 1.03 "CDBG Subrecipient Agreement" means the Subrecipient Agreement for CDBG Grant Funds Between the City of Oxnard and Etting Road LLC for Off-Site Infrastructure Costs in Support of Affordable Housing Development in the City of Oxnard executed by and between the Subrecipient and the City concurrently herewith and setting forth the terms and conditions governing the CDBG Loan.

Section 1.04 "CDBG Deed of Trust" means that certain Deed of Trust with Assignment of Rents executed by and between the Subrecipient and the City and recorded concurrently herewith as security for the CDBG Loan with the Subrecipient as trustor and the City as beneficiary, as well as any amendments to, modifications of, and restatements thereto.

Section 1.05 "CDBG Loan Documents" are collectively the CDBG Subrecipient Agreement, the CDBG Note, the CDBG Deed of Trust, and these CDBG Covenants as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

Section 1.06 "CDBG Note" means the City of Oxnard Community Development Block Grant Program Promissory Note Secured By Deed Of Trust executed by the Subrecipient concurrently herewith in favor of the City in the amount of Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) evidencing the CDBG Loan, which is secured by the CDBG Deed of Trust, as well as any amendments to, modifications of, or restatements thereto.

Section 1.07 "Low income household" means a household having an income equal to or less than the Section 8 very low-income limit established by HUD (i.e. 50% or less of area median income adjusted for family size by the State Department of Housing and Community Development) pursuant to 24 CFR 570.3.

Section 1.08 "Moderate income household" means a household having in income equal to or less than the Section 8 low-income limit and greater than the Section 8 very low-income limit, established by HUD (i.e. 80% to 51% of area median income adjusted for family size by HUD) pursuant to 24 CFR 570.3.

Section 1.09 "Income Eligible" shall mean individuals and households meeting the income definitions under Sections 1.07 and/or 1.08.

Section 1.10 "Area Median Income" shall mean the county wide median income in the then currently published guidelines of the U.S. Department of Housing and Urban Development.

Article II. TERMS AND COMPLIANCE

Section 2.01 The Subrecipient's actions with respect to the Property, the Project and the use of funds from the CDBG Loan shall at all times be in full conformity with all of the requirements of the CDBG Loan Documents.

Section 2.02 These CDBG Covenants shall be effective throughout the Term, as defined above.

Section 2.03 The Subrecipient shall comply with all requirements imposed on projects assisted under the CDBG Program (24 CFR Part 570) in effect on the date that the CDBG Loan is executed by all parties, and as the same may be amended from time to time.

Section 2.04 These affordability requirements shall be covenants running with the land as defined in California Civil Code section 1462. Pursuant to Civil Code section 1468 which governs such covenants, the provisions of these CDBG Covenants shall be binding upon all parties having any right, title, or interest in any of the properties described herein, or any portion thereof and on their heirs, successors in interest and assigns for the Term of these CDBG Covenants. The parties agree that all future deeds or transfers of interest regarding the Property shall show the restrictions of these CDBG Covenants for as long as the Covenants are in effect.

Section 2.05 The Subrecipient, by and for itself and any successors in interest, covenants and agrees that for the entire Term of these CDBG Covenants there shall be no sale, lease, rental, occupancy, removal or other transfer of any of the Project's affordable rental apartment units except for the rental or leasing of individual apartment units to income eligible persons/ households (as defined in Section 1.09 above), or a transfer as permitted in the CDBG Note. The on-site managers' apartment units are not subject to affordability restrictions. Any sale, lease, rental, occupancy, removal or other transfer of any of the Project's affordable rental apartment units in violation of these CDBG Covenants shall be void unless authorized by the prior written consent of the City.

Section 2.06 In the event that the Subrecipient ceases to use the Property as an affordable housing project for income eligible persons / households, or if the Property is transferred, assigned, leased, sold, encumbered or foreclosed whether voluntarily or involuntarily within the Term of these CDBG Covenants, without the prior written consent of the City, the Subrecipient shall repay to the City all CDBG funds loaned to the Subrecipient and invested in the Project, subject to a reasonable notice and cure period.

Article III. PROJECT OCCUPANCY AND RENTS

Section 3.01 During the Term of these CDBG Covenants, the Subrecipient shall rent the units in the Project, excluding the managers' units, to Income Eligible persons / households at rent levels consistent with the requirements of 24 CFR 570.201 and 24 CFR 570.208 of the federal CDBG regulations. Non-compliance under the terms of these CDBG Covenants shall constitute an event of default under the CDBG Note and CDBG Deed of Trust, subject to applicable cure periods.

Section 3.02 Pursuant to 24 CFR 8.22 & 8.23 & 8.32, no less than five percent (5%) of the Project's units shall be constructed as Accessible units (for the physically disabled) and an additional two percent (2%) or more of the Project's units shall be constructed as Sensory units (for the visual and hearing disabled).

Section 3.03 The Project's units, other than the manager's unit, shall be occupied by income eligible persons / households within twelve (12) months from the date of issuance of a certificate of occupancy for the Project. Upon the initial occupancy of each individual unit, other than the manager's unit, the Subrecipient shall provide to the City a Beneficiary Report pursuant to Section 4.01(a) (Beneficiary Report). This 12-month occupancy requirement may not be extended without prior written approval by the City. If all of the Project's units are not occupied within eighteen (18) months of the date of issuance of a certificate of occupancy for the Project, then this shall constitute an event of default, and the Subrecipient shall repay to the City all CDBG funds loaned to the Subrecipient and invested in the Project.

Section 3.04 Marketing Plan. Prior to occupancy of the Project, the Subrecipient shall submit to the City for approval the marketing plan for the Project, including information on affirmative marketing efforts and compliance with both the federal fair housing laws and the City's affirmative marketing policy. The City shall approve or disapprove the Project marketing plan within thirty (30) days. If the City does not respond within such 30 days, the marketing plan shall be deemed approved. If the City disapproves the marketing plan, the City shall specify its reasons for disapproval. The Subrecipient shall submit a revised marketing plan within thirty (30) days of the City's notice of disapproval. The City shall approve or disapprove the revised marketing plan within thirty (30) days of submittal. The City's disapproval of a revised marketing plan shall constitute an event of default under the provisions of the CDBG Note and the CDBG Deed of Trust.

Article IV. REPORTING AND ON-GOING OPERATIONS

Section 4.01 Beneficiary Report. Immediately upon the initial occupancy of all fifty-seven (57) affordable rental units by income eligible households the Subrecipient shall submit to the Recipient a beneficiary report that provides the tenant household information necessary to enable the Recipient to submit a project completion report into the federal Integrated Disbursement and Information System (IDIS). This beneficiary information is required for the households in all fifty-eight (58) affordable housing units, excluding the manager's unit.

Section 4.02 On-Going Project Operation. For each year of the Term of these CDBG Covenants, the Subrecipient shall:

(a) Annually submit to and obtain City approval of the rental rate and utility allowance that is used for each of the Project's affordable housing units.

(b) Provide each tenant household with a minimum 30-day notice prior to implementing any rent increase.

(c) Submit to the City an annual report on the Project's affordable housing units. At a minimum, this annual report shall provide the following information for each unit: tenant household name, size and income amount, the rental unit size (number of bedrooms) and address, and the rental / utility rate that was charged for the reporting year.

(d) Affirmative Marketing: Annual reports shall be submitted by the Subrecipient to the City. Each report shall describe the clientele served by the Project (i.e. total number of clients served with respect to race, ethnicity, gender and disability status). Affirmative steps shall be taken (i.e. targeted marketing) with respects to increasing the participation of any underserved or under-represented group(s).

Section 4.03 Inspection, Records and Monitoring

(a) All required reports and supporting materials that are required by these CDBG Covenants shall be retained by the Subrecipient for a period of no less than five (5) years. The Subrecipient shall make all such reports and materials available to the City or its representative for review and copy within ten (10) days after any request by the City to review such reports.

(b) The Subrecipient shall permit the City or its representative to conduct annual compliance monitoring, including performing on-site records review and inspections of the Project development and Property, as required by regulation or reasonably requested by the City. The City shall provide reasonable notice prior to inspection.

Article V. GENERAL

Section 5.01 These CDBG Covenants shall not be subordinate to any deed of trust, agreement and/or other obligations of the Subrecipient concerning the Property, except for Senior Liens described in Section XLI.C of the CDBG Subrecipient Agreement, and may be subordinated in priority only as to other liens and encumbrances otherwise approved in writing by the City.

Section 5.02 Notices required to be sent to the City hereunder shall be sent by certified mail, return receipt requested, to the following address:

CITY OF OXNARD
Housing Department
435 S D Street
Oxnard, CA 93030
Attention: Housing Director

Notices to Subrecipient shall be to:

Etting Road LLC
c/o Cabrillo Economic Development Corporation
702 County Square Drive, Suite 200
Ventura, CA 93003
Attn: Chief Executive Officer

With copy to:

Goldfarb & Lipman LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612
Attn: Lynn Hutchins

Section 5.03 The Subrecipient hereby specifically acknowledges and agrees to be bound by the covenants contained herein regarding the affordability of the Project and its affordable housing units.

Section 5.04 These CDBG Covenants may be executed in counterparts and shall be fully effective as if signed by all parties whether or not the signatures of all the parties appear on the original or on any one copy of these CDBG Covenants.

[Signature blocks appear on following pages]

IN WITNESS WHEREOF, the parties hereto have executed these CDBG Covenants as of the day and year first above written.

RECIPIENT:
THE CITY OF OXNARD

Housing Director

SUBRECIPIENT:
ETTING ROAD LLC, a California limited company

By: Cabrillo Economic Development Corporation, a California non-profit public benefit corporation, its sole member and manager

By: Victoria J Brady
Chief Executive Officer

APPROVED AS TO FORM:

Stephen Fischer
City Attorney

APPROVED AS TO INSURANCE:

Michael More
Human Resources/Risk Manager

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)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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.

_____ (Place Notary Seal Above)
Signature of Notary Public

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)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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.

_____ (Place Notary Seal Above)
Signature of Notary Public

EXHIBIT A

LEGAL DESCRIPTION

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

A PORTION OF PARCEL H, SUBDIVISION 72 RANCHO EL RIO DE SANTA CLARA O' LA COLONIA, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF VENTURA COUNTY, IN BOOK 3. MISCELLANEOUS RECORDS AT PAGE 14, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4 INCH IRON PIPE SET IN THE SOUTHERLY LINE OF PLEASANT VALLEY ROAD DISTANT THEREON NORTH 59° 15' 30" EAST 250.73 FEET FROM A 4" X 4" POST SET AT THE MOST WESTERLY CORNER OF SAID PARCEL H; THENCE FROM SAID POINT OF BEGINNING.

1ST: NORTH 59° 15' 30" EAST 424.64 FEET ALONG THE SOUTHERLY LINE OF SAID PLEASANT VALLEY ROAD TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1848; THENCE,

2ND: SOUTH 345.13 FEET TO A NAIL AND METAL TAG STAMPED SGB LS 1848 SET IN THE SOUTH SIDE OF A LARGE EUCALYPTUS TREE IN THE NORTH LINE OF ETTING ROAD; THENCE ALONG SAID NORTH
LINE.

3RD: WEST 365.00 FEET TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1842; THENCE,

4TH: NORTH 128.2 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL RIGHT, TITLE AND INTEREST OF THE GRANTOR IN AND TO ALL OIL, GAS, MINERALS, HYDROCARBONS AND ASSOCIATED SUBSTANCES IN, UNDER OR PRODUCED AND SAVED FROM SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY TO THE SURFACE OF THE PROPERTY OR THE TOP FIVE HUNDRED (500) FEET OF THE SUBSURFACE THEREOF MEASURED VERTICALLY FROM THE SURFACE (COLLECTIVELY "MINERAL RIGHTS") AS RESERVED IN DEED RECORDED SEPTEMBER 10, 2015 AS INSTRUMENT NO. 2015-00136187, OFFICIAL RECORDS OF SAID COUNTY.

APN: 225-0-014-020

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CITY OF OXNARD
Housing Department
435 S D Street
Oxnard, CA 93030
Attention: Housing Director

No recording fee pursuant to California
Government Code Section 27383

APN: 225-0-014-020

SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST AFFECTING REAL PROPERTY
WITH ASSIGNMENT OF RENTS
(This Deed of Trust contains an acceleration clause)
(Secures CDBG Promissory Note, Subrecipient Agreement,
and Regulatory Agreement)

This DEED OF TRUST WITH ASSIGNMENT OF RENTS (the "Deed of Trust") is made _____,2025 between Etting Road LLC, a California limited liability company, herein called TRUSTOR, whose address is 702 County Square Drive, Suite 200, Ventura, CA 93003, to Commonwealth Land Title Company, a California corporation, as trustee, herein called TRUSTEE, and the City of Oxnard, a municipal corporation (the "City"), herein called BENEFICIARY,

WITNESSETH: That Trustor grants to Trustee in Trust, with Power of Sale, that property located at 2161 Etting Road, in the City of Oxnard, which is located in Ventura County, California, as more particularly described in Exhibit A (the "Property") attached hereto and incorporated herein by this reference;

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits.

This grant is made for the purpose of securing the performance of each agreement of Trustor incorporated by reference or contained herein; and performance of that certain Subrecipient Agreement For CDBG Grant Funds of even date herewith, that certain City of Oxnard CDBG Regulatory Agreement and Restrictive Covenants of even date herewith, and that certain City of Oxnard Community Development Block Grant Program Promissory Note Secured by Deed of Trust dated _____, 2025, in the face amount of $268,074 made by Trustor to the order of the Beneficiary. This Deed of Trust secures all obligations of each of the foregoing agreements. Any default in the performance of obligations under any of such agreements is a default under each of the agreements and is a default hereunder, and entitles Beneficiary and Trustee to exercise all rights and remedies herein described.

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the fictitious deed of trust recorded in Orange

County August 17, 1964, and in all other counties August 18, 1964, in the book and at the page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	1288	556	Madera	911	136	San Luis Obispo	1311	137
Alpine	3	130-31	Marin	1849	122	San Mateo	4778	175
Amador	133	438	Mariposa	90	453	Santa Barbara	2065	881
Butte	1330	513	Mendocino	667	99	Santa Clara	6626	664
Calaveras	185	338	Merced	1660	753	Santa Cruz	1638	607
Colusa	323	391	Modoc	191	93	Shasta	800	633
Contra Costa	4684	1	Mono	69	302	San Diego Series 5	1964	149774
Del Norte	101	549	Monterey	357	239	Sierra	38	187
El Dorado	704	635	Napa	704	742	Siskiyou	506	762
Fresno	5052	623	Nevada	363	94	Solano	1287	621
Glenn	469	76	Orange	7182	18	Sonoma	2067	427
Humboldt	801	83	Placer	1028	379	Stanislaus	1970	56
Imperial	1189	701	Plumas	166	1307	Sutter	655	585
Inyo	165	672	Riverside	3778	347	Tehama	457	183
Kern	3756	690	Sacramento	5039	124	Trinity	108	595
Kings	858	713	San Benito	300	405	Tulare	25300	108
Lake	437	110	San Bernardino	6213	768	Toulumne	177	160
Lassen	192	367	San Francisco	A-804	596	Ventura	2607	237
Los Angeles	T-3878	874	San Joaquin	2855	283	Yolo	769	16
						Yuba	398	693

shall inure to and bind the parties hereto, with respect to the property above described. Said Agreements, terms and provisions contained in said subdivisions A and B, (identical in all counties, and attached hereto), are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein (provided that in the event any said provision is inconsistent with the language in this Deed of Trust, the language of this Deed of Trust shall control), and Beneficiary may charge for a statement regarding the obligation secured hereby; provided the charge therefore does not exceed the maximum allowed by law.

The Trustor acknowledges receipt of a copy of such provisions of such fictitious deed of trust.

If the Trustor shall sell, convey or alienate said property, or any part thereof, or any interest therein, or shall be divested of his title or any interest therein in any manner or way, whether voluntarily or involuntarily, in a manner not allowed by the agreements secured by this Deed of Trust or without the written consent of the Beneficiary being first had and obtained, Beneficiary shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any note evidencing the same, immediately due and payable.

The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be made to it at its address hereinbefore set forth.

Exhibit A is attached hereto and incorporated herein.

(Signature appears on following page)

SIGNATURE OF TRUSTOR

ETTING ROAD LLC,
a California limited liability company

By: Cabrillo Economic Development Corporation, a California nonprofit public benefit corporation,
Its: sole member and manager

_____
By: Victoria J. Brady
Its: Chief Executive Officer

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)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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.

_____ (Place Notary Seal Above)
Signature of Notary Public

EXHIBIT A

LEGAL DESCRIPTION

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

A PORTION OF PARCEL H, SUBDIVISION 72 RANCHO EL RIO DE SANTA CLARA O' LA COLONIA, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF VENTURA COUNTY, IN BOOK 3. MISCELLANEOUS RECORDS AT PAGE 14, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4 INCH IRON PIPE SET IN THE SOUTHERLY LINE OF PLEASANT VALLEY ROAD DISTANT THEREON NORTH 59° 15' 30" EAST 250.73 FEET FROM A 4" X 4" POST SET AT THE MOST WESTERLY CORNER OF SAID PARCEL H; THENCE FROM SAID POINT OF BEGINNING.

1ST: NORTH 59° 15' 30" EAST 424.64 FEET ALONG THE SOUTHERLY LINE OF SAID PLEASANT VALLEY ROAD TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1848; THENCE,

2ND: SOUTH 345.13 FEET TO A NAIL AND METAL TAG STAMPED SGB LS 1848 SET IN THE SOUTH SIDE OF A LARGE EUCALYPTUS TREE IN THE NORTH LINE OF ETTING ROAD; THENCE ALONG SAID NORTH
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3RD: WEST 365.00 FEET TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1842; THENCE,

4TH: NORTH 128.2 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL RIGHT, TITLE AND INTEREST OF THE GRANTOR IN AND TO ALL OIL, GAS, MINERALS, HYDROCARBONS AND ASSOCIATED SUBSTANCES IN, UNDER OR PRODUCED AND SAVED FROM SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY TO THE SURFACE OF THE PROPERTY OR THE TOP FIVE HUNDRED (500) FEET OF THE SUBSURFACE THEREOF MEASURED VERTICALLY FROM THE SURFACE (COLLECTIVELY "MINERAL RIGHTS") AS RESERVED IN DEED RECORDED SEPTEMBER 10, 2015 AS INSTRUMENT NO. 2015-00136187, OFFICIAL RECORDS OF SAID COUNTY.

APN: 225-0-014-020

CITY OF OXNARD
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
PROMISSORY NOTE SECURED BY DEED OF TRUST

$268,074 **Oxnard, California** **_____, 2025**

FOR VALUE RECEIVED, Etting Road LLC, a California limited liability company ("Subrecipient"), whose address is 702 County Square Drive, Suite 200, Ventura, California 93003, hereby promises to pay to the order of the City of Oxnard, a municipal corporation ("City"), whose address is 435 South D Street, Oxnard, California 93030, the principal amount equal to Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074), or so much thereof as may be advanced by City to Subrecipient, together with interest thereon, as set forth below.

1. **PURPOSE.** In order to assist Subrecipient in developing a fifty-eight (58) unit affordable rental housing development located at 2161 Etting Road, Oxnard, California ("Project"), City has agreed to loan to Subrecipient the amount of Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) to cover the costs of off-site infrastructure in furtherance of the Project, which amount is derived from funds received by the City from the United States Department of Housing and Urban Development through the Community Development Block Grant Program ("CDBG Funds").

2. **SUBRECIPIENT'S OBLIGATION.** This promissory note ("Note") evidences Subrecipient's obligation to pay City the principal amount of Two Hundred and Sixty-Eight Thousand Seventy-Four Dollars ($268,074) ("Loan") for the CDBG Funds loaned to Subrecipient by City for the specific uses designated in that certain Subrecipient Agreement for CDBG Grant Funds by and between Subrecipient and City of even date herewith ("Subrecipient Agreement") and that certain CDBG Regulatory Agreement and Restrictive Covenants by and between Subrecipient and City of even date herewith ("Regulatory Agreement"). This Note is secured by a Deed of Trust and Assignment of Rents by Subrecipient in favor of City of even date herewith ("Deed of Trust," and collectively with this Note, the Subrecipient Agreement and the Regulatory Agreement, the "CDBG Loan Documents").

3. **INTEREST.** Subject to Section 4, this Note shall bear simple interest at the rate of three percent (3%) per annum from the date of the first disbursement under the Subrecipient Agreement. Interest is not compounding.

4. **DEFAULT INTEREST.** In the event of default by Subrecipient of any of its obligations under the CDBG Loan Documents, Subrecipient shall pay to City interest on the outstanding principal of this Note, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law, in addition to the interest rate provided in Section 3 above, from the date of the event of default until the date that the event of default is cured or the Loan is repaid in full. The default interest shall be paid monthly and is due to the City on the first day of each month.

5. **AMOUNT AND TIME OF PAYMENT.** The principal and interest of the Loan shall

be due and payable on the earlier of: (a) fifty-five (55) years from the date of the recordation of a notice of completion issued for the Project, or (b) the date the Property is sold or otherwise transferred, except, if Subrecipient is a limited partnership and the affordability covenants are maintained for the duration of the original City affordability period, for a transfer to the general partner(s) of the Subrecipient or, a City approved affiliate thereof, or (c) Subrecipient has failed to commence Project activities as set forth in Section VII of the Subrecipient Agreement, or (d) an event of default by Subrecipient which has not been cured as within thirty (30) days after notice thereof by City or such longer period if so specified by the City. Annual loan payments on the Loan shall be made in accordance with Section 7 hereof. In the event of default by Subrecipient which has not been cured as provided herein, the principal and all current and accrued interest shall be due and payable in accordance with Section 9 of this Note. In any event, the principal and all current and accrued interest shall be due and payable no later than December 31, 2080.

6. **DEFINITIONS.** Unless otherwise defined, all capitalized terms in this Note shall have the definition ascribed to such terms in the Subrecipient Agreement.

a. "**ANNUAL FINANCIAL STATEMENT**" means the financial statement for each calendar year prepared at Subrecipient's expense and prepared under accounting principles generally accepted in the United States of America and audited by Certified Public Accountants reasonably acceptable to City, which shall form the basis for determining the Residual Receipts.

b. **"ANNUAL OPERATING EXPENSES"** means with respect to a particular calendar year the following costs reasonably and actually incurred for operation and maintenance of the Project, using generally accepted accounting principles: debt service currently due on a non-optional basis (excluding debt service due from Residual Receipts, cash flow or surplus cash of the Project) on loans secured by the Senior Liens set forth in Section XLI.C of the Subrecipient Agreement ("Senior Loans") and other loans associated with development of the Project and approved by the City; property and other taxes and assessments imposed on the Project; premiums for property damage and liability insurance; utility services not paid for directly by tenants, including water, sewer, trash collection, gas, and electricity; maintenance and repair, including but not limited to, pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial supplies and maintenance oversight fee; any annual license or certificate of occupancy fees required for operation of the Project; general administrative expenses including, but not limited to, advertising and marketing, security services and systems, professional fees for legal, audit, accounting and tax returns; bookkeeping fees, property management fees not to exceed eight percent (8%) of Gross Revenues from the Project plus reimbursements including on-site manager costs and reimbursements which are standard in the industry; any fees or costs in connection with resident/social services provided to tenants; social services oversight fee in a reasonable amount given comparable fees for such services at that time; cash deposited into a reserve for capital replacements of Project improvements in such reasonable amounts as are approved by lenders of the Senior Loans to the Project ("Senior Lenders"), any current and accrued fee for managing the Subrecipient entity, paid to the manager of the Subrecipient, in an annual

amount of Twenty Thousand Dollars ($20,000) a year (or partial year) of the Project's operations, increasing annually by three percent (3%); payment of any previously unpaid portion of the Development Fee due (with interest at a rate not to exceed the applicable federal rate) not exceeding a cumulative amount of the Development Fee as allowed by the California Department of Housing and Community Development ("HCD"); cash deposited into an operating reserve in such reasonable amounts as are approved by Senior Lenders to the Project; extraordinary operating costs specifically approved by the City; and other ordinary and reasonable operating expenses not listed above. Annual Operating Expenses shall not include the following: depreciation, amortization, depletion or other non-cash expenses or any amount expended from a reserve account. The Annual Operating Expenses shall be reported in the Annual Financial Statement.

c. "**GROSS REVENUE**" means for each calendar year, all revenue, income, receipts, and other consideration actually received by Subrecipient from operation and leasing of the Project. Gross Revenue includes, but is not limited to: (i) all rents, fees and charges paid by tenants, payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements resulting in actual income to Subrecipient; (ii) the proceeds of business interruption or similar insurance; (iii) the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Project (or applied toward the cost of recovering such proceeds); (iv) condemnation awards for a taking of part or all of the Project for a temporary period. Gross Revenue shall exclude tenants' security deposits, loan proceeds, capital contributions or other similar advances.

d. "**RESIDUAL RECEIPTS**" in a particular calendar year shall mean the amount by which Gross Revenue exceeds Annual Operating Expenses.

7. **PAYMENTS**. All accrued interest and principal shall be due and payable in accordance with the terms set forth in Section 5. Commencing on July 1st of the first year after all other Senior Loans have been fully repaid, Subrecipient shall make an annual Loan payment equal to fourteen and eighty-nine hundredths' percent (14.89%) of Residual Receipts for the previous calendar year (each, an "**Annual Payment**"). The Subrecipient shall provide the City with any documentation reasonably requested by the City to substantiate the Subrecipient's determination of the Gross Revenue, Annual Operating Expenses, and Annual Payment. The City shall apply all Annual Payments first to accrued interest, and second to principal. In the event that the City determines that there is an understatement in the amount of an Annual Payment due to City, Subrecipient shall promptly pay to City such understatement, but in any event, no later than within twenty (20) days of notice of such understatement. In the event that City determines that there has been an overpayment in an Annual Payment due to City, City shall pay to Subrecipient the amount of overpayment promptly, but in any event, within twenty (20) days of such determination. If contested, Subrecipient has the right to pay under protest and request an audit by an independent certified public accountant. On or before each Annual Payment the Subrecipient shall submit its Annual Financial Statement to City for the preceding calendar year together with the required Annual Payment for the preceding calendar year and each Payment Date thereafter until the Loan is paid in full or otherwise terminated. City shall review and approve the amount to be paid by Subrecipient and the Annual Financial Statement, or request revisions, within sixty (60) days after

receipt. In the event City fails to approve or disapprove the Annual Financial Statement within the sixty (60) day period, Subrecipient may request a written determination of approval or disapproval following the expiration of such period. In the event City fails to provide a written determination to Subrecipient within ten (10) days following the receipt of Subrecipient's request for determination, the Annual Financial Statement shall be deemed approved.

8. **PLACE AND MANNER OF PAYMENT.** All amounts due and payable under this Note are payable at the office of City at the address set forth above, or at such other place as City may designate to Subrecipient in writing from time to time, in any coin or currency of the United States which on the respective Payment Dates thereof shall be legal tender for the payment of public and private debts.

9. **DEFAULT AND ACCELERATION.** This Note is secured by the Deed of Trust. All covenants, conditions and agreements contained in the Deed of Trust and the Subrecipient Agreement are hereby made a part of this Note. Subrecipient agrees that the principal and all current and accrued interest, shall, at the option of City, be immediately due and payable upon any event of default as defined in the Subrecipient Agreement which has not been cured pursuant to that Subrecipient Agreement, including without limitation the failure of Subrecipient to make any payment when due. Upon any event of default, City may exercise any other right or remedy permitted under this Note and the CDBG Loan Documents. Notwithstanding anything to the contrary contained in the CDBG Loan Documents, City hereby agrees that any cure of any event of default made or tendered by Subrecipient's limited partners shall be deemed to be a cure by Subrecipient and shall be accepted or rejected on the same basis as if made or tendered by Subrecipient.

10. **PREPAYMENT OF LOAN**. No prepayment penalty will be charged to Subrecipient for payment of all or any portion of the Loan amounts prior to the end of the term described herein. However, prepayment of the Loan during the term of the Regulatory Agreement shall require City approval and shall not affect Subrecipient's obligations under the Regulatory Agreement.

11. **NO OFFSET.** Subrecipient hereby waives any rights of offset it now has or may hereafter have against City, its successors and assigns, and agrees to make the payments called for herein in accordance with the terms of this Note.

12. **WAIVERS.** All presentments, notices of dishonor, and protests are waived by all makers, sureties, guarantors, and endorsers of this Note, if any.

13. **CONSENTS AND APPROVALS.** Any consent or approval of City required under this Note shall not be unreasonably withheld or delayed.

14. **NOTICES.** Except as may be otherwise specifically provided herein, any approval, notice, direction, consent request or other action by City shall be in writing and may be communicated to Subrecipient at the principal office of Subrecipient set forth below, or at such other place or places as Subrecipient shall designate in writing, from time to time, for the receipt of communications from City. Copies of all notices which are sent to Subrecipient under the terms of the Loan Documents shall also be sent the additional parties as listed at the address below.

SUBRECIPIENT:	Etting Road LLC c/o Cabrillo Economic Development Corporation 702 County Square Drive, Suite 200 Ventura, CA 93003 Attn: Chief Executive Officer
With copy to:	Goldfarb & Lipman LLP 1300 Clay Street, 11th Floor Oakland, CA 94612 Attn: Lynn Hutchins

15. **BINDING UPON SUCCESSORS.** All provisions of this Note shall be binding upon and inure to the benefit of the successors-in-interest, transferees, and assigns of Subrecipient and City.

16. **GOVERNING LAW.** This Note shall be interpreted under and governed by the laws of the State of California, except for those provisions relating to choice of law and those provisions preempted by federal law.

17. **SEVERABILITY.** Every provision of this Note is intended to be severable. If any provision of this Note shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

18. **TIME.** Time is of the essence in this Note.

19. **WAIVER.** Any waiver by City of any obligation in these Loan Documents must be in writing. No waiver will be implied from any delay or failure by City to take action on any breach or default of Subrecipient or to pursue any remedy allowed under the Loan Documents or applicable law. Any extension of time granted to Subrecipient to perform any obligation under the Loan Documents shall not operate as a waiver or release from any of the Subrecipient's obligations under the Loan Documents. Consent by City to any act or omission by Subrecipient shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for City's written consent to future waivers.

20. **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to this Note must be in writing, and shall be made only if executed by both Subrecipient and City.

21. **NONRECOURSE.** Except as expressly provided in the second paragraph of this Section 21, the Subrecipient, and the Subrecipient's partners, officers, directors, employees and agents shall not have any direct or indirect personal liability for payment of the principal of, or interest on, this Note. The sole recourse of the City with respect to the principal of, or interest on, the Note shall be to the property securing the indebtedness evidenced by the Note. However, nothing contained in the foregoing limitation of liability shall (i) limit or impair the enforcement

against all such security for the Note of all the rights and remedies of the City, or (ii) be deemed in any way to impair the right of the City to assert the unpaid principal amount of the Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Note, except as hereafter set forth; nothing contained herein is intended to relieve the Subrecipient of personal liability to the extent of actual damages for (i) Subrecipient's fraud or willful misrepresentation; (ii) the failure to pay taxes, assessments or other charges (which are not contested by the Subrecipient in good faith) which may create liens on the Property that are payable or applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by the Subrecipient other than in accordance with the Deed of Trust; (iv) the material misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property; (v) the Subrecipient's indemnification obligations under the Subrecipient Agreement; and (vi) payment to the City of any rental income or other income arising with respect to the Property received by the Subrecipient after the City has given notice to the Subrecipient of the occurrence of an event of default and after the expiration of all applicable notice and cure periods, subject to the rights of any City providing a loan secured by the Property to which the City has subordinated the Deed of Trust.

(signature appears on following page)

IN WITNESS WHEREOF, the Subrecipient has executed this Note as of the day and year first above written.

SUBRECIPIENT:

ETTING ROAD LLC,
A California limited liability company

By: Cabrillo Economic Development Corporation, a California nonprofit public benefit corporation,
Its: sole member and manager

_____
By: Victoria J. Brady
Its: Chief Executive Officer

AFFORDABLE HOUSING LOAN AGREEMENT
(DOLORES HUERTA GARDENS)

This Affordable Housing Loan Agreement ("Loan Agreement") is made as of this ___ day of _____, 2025, by and between the City of Oxnard, a municipal corporation ("Lender") and Etting Road LLC, a California limited liability company ("Borrower").

RECITALS

A. Lender wishes to promote the development of more affordable rental housing in neighborhoods in need of revitalization in the City and to provide a greater choice of housing opportunities for persons and families with low incomes.

B. Borrower is constructing a fifty-eight (58) unit multi-family housing a development with community room, community gardens, common courtyards, and private outdoor patios and balconies on a 1.98-acre parcel located in Oxnard, California as more particularly particularly described in Exhibit A attached hereto and incorporated by this reference (the "Property").

C. Lender has "In Lieu Fees" collected by Lender pursuant to the provisions of City of Oxnard Ordinance Nos. 2721 and 2980 for the purpose of expanding the supply of decent, safe, sanitary and affordable housing for low-income persons and families.

D. A total of Six Hundred and Thirty-One Thousand Nine Hundred Dollars ($631,900) of In Lieu Fees will be loaned to Borrower pursuant to this Loan Agreement.

NOW THEREFORE, IN CONSIDERATION of the mutual agreements, obligations, and representations, and in further consideration for the making of the Loan, Borrower and Lender hereby agree as follows:

ARTICLE 1 DEFINITIONS

The following terms have the meanings and content set forth in this section wherever used in this Loan Agreement, attached Exhibits, or documents incorporated into this Loan Agreement by reference.

1.1 "**ANNUAL FINANCIAL STATEMENT"** means the financial statement for each calendar year prepared at Borrower's expense and prepared under accounting principles generally accepted in the United States of America and audited by Certified Public Accountants reasonably acceptable to Lender, which shall form the basis for determining the Residual Receipts.

1.2 **"ASSISTED UNIT"** means any of the six (6) housing units on the Property which are supported by funds under this Loan Agreement.

1.3 **"BORROWER"** is Etting Road LLC, a California limited liability company and its authorized representatives, assigns, transferees, or successors-in-interest thereto.

1.4 **"CITY"** means the City of Oxnard, a municipal corporation.

1.5 **"DEED OF TRUST"** is that certain deed of trust, assignment of rents, and security agreement placed on the Property and the improvements to be constructed thereon as security for the Loan by Borrower as trustor with Lender as beneficiary attached hereto as Exhibit C. The terms of the Deed of Trust have been incorporated into this Loan Agreement.

1.6 **"DISBURSEMENT SCHEDULE"** is the proposed disbursements of loan proceeds as set forth in Exhibit E attached hereto.

1.7 **"EFFECTIVE DATE"** is the execution date of this Agreement.

1.8 **"ESCROW HOLDER"** means the person or entity designated by the Borrower and approved by Lender to hold the Regulatory Agreement and Deed of Trust until receiving written instructions to record the documents.

1.9 **"HAZARDOUS MATERIALS"** means any hazardous or toxic substances, materials, wastes, pollutants, or contaminants which are defined, regulated, or listed as "hazardous substances," "hazardous wastes," "hazardous materials," "pollutants," "contaminants," or "toxic substances," under federal or state environmental and health and safety laws and regulations, including without limitation petroleum and petroleum byproducts, flammable explosives, urea formaldehyde insulation, radioactive materials, asbestos, and lead. Hazardous Materials do not include substances that are used or consumed in the normal course of developing, operating, or occupying a housing project, to the extent and degree that such substances are stored, used, and disposed of in the manner and in amounts that are consistent with normal practice and legal standards at the time of such use.

1.10 Intentionally left blank.

1.11 **"HUD"** means the United States Department of Housing and Urban Development.

1.12 **"IMPROVEMENTS"** means any improvements and development of the Property.

1.13 **"INSURANCE REQUIREMENTS"** means the insurance coverage which must be in full force and effect during the term of the Regulatory Agreement, as specified in Exhibit F.

1.14 **"LENDER"** means the City of Oxnard, a municipal corporation and its authorized representatives, officers, officials, directors, employees, and agents.

1.15 **"LOAN"** means the loan of funds in the total amount of Six Hundred and Thirty-One Thousand Nine Hundred Dollars ($631,900) from the Lender to the Borrower as provided in this Loan Agreement to provide permanent financing for the Project.

1.16 **"LOAN AGREEMENT"** means this loan agreement entered into between Lender and Borrower.

1.17 "**LOAN DOCUMENTS"** are collectively the Loan Agreement, the Note, the Deed of Trust, and the Regulatory Agreement, as they may be amended, modified, or restated from time to time, along with all exhibits and attachments to these documents.

1.18 "**MEDIAN INCOME"** means the median income for Ventura County Metropolitan Statistical Area as determined by HUD with adjustments for household size.

1.19 "**NOTE"** means the promissory note executed by the Borrower in favor of Lender in the amount of Six Hundred and Thirty-One Thousand Nine Hundred Dollars ($631,900) to evidence the Loan substantially in the form attached hereto as Exhibit B.

1.20 "**NOTICE OF COMPLETION**" shall mean the notice that shall be filed by the Borrower with the Ventura County Recorder at completion of construction. Borrower shall not unreasonably delay filing the Notice of Completion.

1.21 **"OPERATING EXPENSES"** means with respect to a particular calendar year the following costs reasonably and actually incurred for operation and maintenance of the Project, using generally accepted accounting principles: debt service currently due on a non-optional basis (excluding debt service due from Residual Receipts, cash flow or surplus cash of the Development) on loans secured by the Senior Liens set forth in Section 1.30 of this Agreement ("Senior Loans") and other loans associated with development of the Project and approved by the City; property and other taxes and assessments imposed on the Project; premiums for property damage and liability insurance; utility services not paid for directly by tenants, including water, sewer, trash collection, gas, and electricity; maintenance and repair, including but not limited to, pest control, landscaping and grounds maintenance, painting and decorating, cleaning, common systems repairs, general repairs, janitorial supplies and maintenance oversight fee; any annual license or certificate of occupancy fees required for operation of the Project; general administrative expenses including, but not limited to, advertising and marketing, security services and systems, professional fees for legal, audit, accounting and tax returns; bookkeeping fees, property management fees not to exceed eight percent (8%) of Gross Revenues from the Project plus reimbursements including on-site manager costs and reimbursements which are standard in the industry; any fees or costs in connection with resident/social services provided to tenants; social services oversight fee in a reasonable amount given comparable fees for such services at that time; cash deposited into a reserve for capital replacements of Project improvements in such reasonable amounts as are approved by lenders of the Senior Loans to the Project ("Senior Lenders"), any current and accrued fee for managing the Borrower entity, paid to the manager of the Borrower, in an annual amount of Twenty Thousand Dollars ($20,000) a year (or partial year) of the Project's operations, increasing annually by three percent (3%); payment of any previously unpaid portion of the

Development Fee due (with interest at a rate not to exceed the applicable federal rate) not exceeding a cumulative amount of the Development Fee as allowed by the California Department of Housing and Community Development ("HCD"); cash deposited into an operating reserve in such reasonable amounts as are approved by Senior Lenders to the Development; extraordinary operating costs specifically approved by the City; and other ordinary and reasonable operating expenses not listed above. Annual Operating Expenses shall not include the following: depreciation, amortization, depletion or other non-cash expenses or any amount expended from a reserve account. The Operating Expenses shall be reported in the Annual Financial Statement.

1.22 "**PAYMENT DATE**" shall mean July 1st of the year following the issuance of a Notice of Completion for the Project, and each July 1st thereafter until the loan is paid in full or otherwise terminated.

1.23 "**PROJECT"** means the operation and management of the Property according to the terms of this Loan Agreement.

1.24 **"PROPERTY"** means the property commonly referred to as 2161 Etting Road, Street, Oxnard, California, as more particularly described in Exhibit A, which is incorporated into this Loan Agreement by this reference.

1.25 **"QUALIFYING HOUSEHOLD"** means a household having an income equal to or less than the Section 8 very low-income limit established by HUD (i.e. 50% or less of area median income adjusted for family size by the State Department of Housing and Community Development) pursuant to 24 CFR 570.3.

1.26 **"QUALIFYING RENT"** means the total annual charges for rent, utilities, and related services to each Very Low-Income Household which shall not exceed thirty percent (30%) of the income for a Very Low-Income Household.

1.27 **"REGULATORY AGREEMENT"** means the regulatory agreement executed by Borrower and Lender, attached as Exhibit D, and recorded against the Property in the Official Records of Ventura County which regulates the use of the Assisted Units.

1.28 "**RESIDUAL RECEIPTS**" means for any calendar year Revenues reduced by Operating Expenses.

1.29 **"REVENUE"** means for each calendar year, all revenue, income, receipts, and other consideration actually received by Borrower from operation and leasing of the Project. Gross Revenue includes, but is not limited to: (i) all rents, fees and charges paid by tenants, payments or other rental subsidy payments received for the dwelling units, deposits forfeited by tenants, all cancellation fees, price index adjustments and any other rental adjustments to leases or rental agreements resulting in actual income to Borrower; (ii) the proceeds of business interruption or similar insurance; (iii) the proceeds of casualty insurance to the extent not utilized to repair or rebuild the Project (or applied toward the cost of recovering such proceeds); (iv) condemnation awards for a taking of part or all of the Project for a temporary period. Revenue

shall exclude tenants' security deposits, loan proceeds, capital contributions or other similar advances.

1.30 "**SENIOR LIENS**" means liens securing repayment of and regulatory agreements associated with the following loans: First-Citizens Bank & Trust Company (formerly known as Silicon Valley Bank) $31,535,475 construction loan converting to a permanent loan of approximately $4,175,200; HCD Joe Serna construction/permanent loan of $5,000,000; HCD Accelerator permanent loan of $26,246,464; HCD Veterans Housing and Homelessness Prevention Program (VHHP) permanent loan of $2,788,410; City HOME construction/permanent loan of $1,854,000; and County of Ventura construction/permanent loan of $380,000.

1.31 **"VERY LOW-INCOME HOUSEHOLD"** means a household whose annual income does not exceed fifty percent (50%) of the median income for the Ventura County Metropolitan Statistical Area as determined by HUD with adjustments for household size.

ARTICLE 2 TERMS OF THE LOAN

2.1 **LOAN.** On and subject to the terms and conditions of the Loan Documents, Lender agrees to make and Borrower agrees to accept a loan with the following terms:

2.2 **AMOUNT.** The principal amount of the Loan shall be an amount not to exceed Six Hundred and Thirty-One Thousand Nine Hundred Dollars ($631,900) and shall be evidenced by the Note.

2.3 **INTEREST.** Subject to the provisions of Section 2.4, the Note shall bear interest at a rate of three percent (3%) simple interest from the date on which the principal amount of the Loan is initially advanced to Borrower through the fifty-five (55) year amortizing loan term.

2.4 **DEFAULT INTEREST.** In the event of a default by Borrower of any of its obligations under this Loan Agreement and expiration of applicable cure periods, Borrower shall pay to Lender interest on the outstanding principal of the Loan, at an annual rate equal to the lesser of (i) ten percent (10%) or (ii) the highest interest allowed by law, from the date of the default until the date that the default is cured or the Loan is repaid in full.

2.5 **TERM OF LOAN.** The principal and interest of the Loan shall be due and payable on the earlier of: (a) fifty-five (55) years from the issuance of a Notice of Completion, or (b) the date the Property is sold. In the Event of Default by Borrower, which has not been cured as provided for in this Loan Agreement, all current and accrued interest shall be due and payable.

2.6 **USE OF FUNDS.** Loan proceeds shall be used for construction expenses.

2.7 **SECURITY.** Borrower shall secure its obligation to repay the Loan by executing a Deed of Trust and recording it as a lien against the Property.

2.8 **REPAYMENT OF THE LOAN.** All accrued interest and principal shall be due and payable in accordance with the terms set forth in Section 2.5 of this Agreement. Commencing on July 1st of the first year after the issuance of a Notice of Completion, which shall include a Temporary Certificate of Occupancy for the Project, and on July 1st of each year thereafter and after all Senior Loans have been fully repaid, Borrower shall make an annual Loan payment equal to thirty-five and eleventh hundredths percent (35.11%) of Residual Receipts for the previous calendar year (each, an "**Annual Payment**"). The Borrower shall provide the City with any documentation reasonably requested by the City to substantiate the Borrower's determination of the Revenue, Operating Expenses, and Annual Payment. The City shall apply all Annual Payments first to accrued interest, and second to principal. In the event that the City determines that there is an understatement in the amount of an Annual Payment due to City, Borrower shall promptly pay to City such understatement, but in any event, no later than within twenty (20) days of notice of such understatement. In the event that City determines that there has been an overpayment in an Annual Payment due to City, City shall pay to Borrower the amount of overpayment promptly, but in any event, within twenty (20) days of such determination. If contested, Borrower has the right to pay under protest and request an audit by an independent certified public accountant. On or before each Annual Payment the Borrower shall submit its Annual Financial Statement to City for the preceding calendar year together with the required Annual Payment for the preceding calendar year and each Payment Date thereafter until the Loan is paid in full or otherwise terminated. City shall review and approve the amount to be paid by Borrower and the Annual Financial Statement, or request revisions, within sixty (60) days after receipt. In the event City fails to approve or disapprove the Annual Financial Statement within the sixty (60) day period, Borrower may request a written determination of approval or disapproval following the expiration of such period. In the event City fails to provide a written determination to Borrower within ten (10) days following the receipt of Borrower's request for determination, the Annual Financial Statement shall be deemed approved.

2.9 **PREPAYMENT OF LOAN.** No prepayment penalty will be charged to Borrower for payment of all or any portion of the Loan amount prior to the end of the term described herein. However, prepayment of the Loan shall not affect Borrower's obligations under the Regulatory Agreement.

2.10 **RECORDING.** Escrow Holder shall record with the Recorder for the County of Ventura the following documents concurrently: Deed of Trust, Regulatory Agreement, CDBG Regulatory Agreement and Restrictive Covenants, and CDBG Deed of Trust.

A. For avoidance of doubt, CDBG Regulatory Agreement and Restrictive Covenants is that Agreement executed between the City and Borrower in connection with a Community Development Block Grant ("CDBG") loan in the amount of $268,074.

B. For avoidance of doubt, CDBG Deed of Trust is that Agreement executed between the City and Borrower to secure a CDBG loan in the amount of $268,074.

ARTICLE 3 LOAN DISBURSEMENTS

3.1 **CONDITIONS PRECEDENT TO DISBURSEMENT.** Lender shall not be obligated to make any disbursements of the Loan proceeds or take any other action under the

Loan Documents unless the following conditions precedent are satisfied prior to the disbursement of the Loan:

A. There exists no Event of Default nor any act, failure, omission or condition that with the giving of notice or passage of time would constitute an Event of Default;

B. Borrower has executed and delivered to Lender all documents, instruments, and policies required under the Loan Documents and the Deed of Trust and the Regulatory Agreement have been recorded with the Recorder for the County of Ventura;

C. Borrower has provided to Lender a certificate of insurance or copy of the insurance policy, which policy shall be satisfactory to the Lender and which conforms to Exhibit F; and

D. Borrower has complied with all reporting requirements set forth in this Loan Agreement.

3.2 **DISBURSEMENT OF LOAN PROCEEDS.** Disbursement of Loan proceeds shall not exceed Six Hundred and Thirty-One Thousand Nine Hundred Dollars ($631,900). The disbursement shall be made in accordance with the Disbursement Schedule and each disbursement shall be approved by Lender prior to such disbursement based upon documentation submitted to Lender by Borrower.

ARTICLE 4 DEVELOPMENT OF PROJECT

4.1 **SCOPE OF WORK.** Prior to the date of this Agreement, Borrower submitted to Lender and Lender approved the final scope of work for the Project. Borrower shall develop and construct the Project in substantial conformance with the scope of work and any modifications thereto approved in writing by Lender.

4.2 **COMPLETION OF PROJECT.** Borrower shall diligently prosecute development of the Project to completion. Borrower shall provide proof of completion as evidenced by the recording of a Notice of Completion. The initial lease up of the Assisted Units shall occur within six (6) months of the Project placed in service date. If Borrower fails to lease up the Assisted Units within that time period, Borrower must prepare and submit a marketing plan for approval to the City Housing Director. If initial lease up of the Assisted Units has still not occurred within eighteen (18) months of the Project placed in service date, Developer will be required to repay to Lender, within 30 calendar days of receipt of notice from Lender, a pro rata share of the outstanding principal loan plus interest thereon. The pro rata repayment shall be based upon the total number of Assisted Units that have not been initially leased up during the 18 month period.

4.3 **FINANCING.** Borrower shall promptly inform Lender in writing of any changes in the amount, terms, and/or sources of financing or funding for the Property acquisition and Project development work.

4.4 **CONTRACTS AND SUBCONTRACTS.** All development work and professional services for the Project shall be performed by persons or entities licensed or otherwise authorized to perform the applicable construction work or service in the State of California.

All costs incurred in acquisition of the Property and development, construction and operation of the Project shall be the responsibility and obligation solely of Borrower.

4.5 **ADDITIONS OR CHANGES IN WORK.** Lender must be notified in a timely manner of any changes in the work required to be performed under this Loan Agreement. A written change order authorized by Lender must be obtained before any changes, additions, or deletions may be performed that would modify any line item by more than $50,000 or in the aggregate by $250,000. If Lender has not responded to a written request for a change order by Borrower within ten (10) days of receipt of such request by Lender, such request shall be deemed approved by Lender. Consent to any additions, changes, or deletions to the work shall not release Borrower from any other obligations in the Loan Documents.

4.6 **INSPECTIONS.** Borrower shall permit and facilitate, and require its contractors to permit and facilitate, observation and inspection at the job site by Lender and by public authorities during reasonable business hours for the purposes of determining compliance with this Loan Agreement.

4.7 **SITE SUPERVISION.** During the development of the Project, Borrower shall maintain a full-time site superintendent to supervise all development and construction work on the Property. The site superintendent shall be on-site during all work hours.

4.8 **CONSTRUCTION RESPONSIBILITIES.** Borrower shall be solely responsible for all aspects of Borrower's conduct in connection with the Project, including, but not limited to, the quality and suitability of the construction work, the supervision of construction work, the qualifications, financial condition, and performance of all contractors, subcontractors, suppliers, consultants, and property managers. To ensure compliance with all applicable labor code requirements, Borrower has hired a labor compliance monitor. Any review or inspection undertaken by Lender with reference to the Project is solely for the purpose of determining whether Borrower is properly discharging its obligations to Lender, and should not be relied upon by Borrower or by any third parties as a warranty or representation by Lender as to the quality of the development and construction of the Project.

4.9 **BARRIERS TO THE DISABLED.** The Project shall be developed and the Property shall be maintained to comply with all applicable federal, state, and local requirements for access for disabled persons.

4.10 **LEAD-BASED PAINT AND ASBESTOS REMOVAL.** Borrower and its contractors and subcontractors shall not use lead-based paint or asbestos in the development and construction of the Property and shall comply with Federal Regulations 24 C.F.R., 29 C.F.R., 40 C.F.R., Title X, California O.S.H.A., California health codes, and all County standards. Borrower shall incorporate or cause to be incorporated this provision in all contracts and

subcontracts for work performed on the Property which involves the application of paint and/or other construction-related surfaces.

4.11 **MECHANICS LIENS AND STOP NOTICES.** If any claim of lien is filed against the Property or a stop notice affecting the Loan is served on Lender or any other lender or other third party in connection with the Project, Borrower shall, within sixty (60) days of such filing or service, either pay and fully discharge the lien or stop notice, effect the release of such lien or stop notice by delivering to Lender a surety bond in sufficient form and amount, provide Lender with a lien-free endorsement or provide Lender with other assurance reasonably satisfactory to Lender that the claim of lien or stop notice will be paid or discharged.

If Borrower fails to discharge any lien, encumbrance, charge, or claim referred to herein, then in addition to any other right or remedy, Lender may, but shall be under no obligation to, discharge such lien, encumbrance, charge, or claim at Borrower's expense. Alternatively, Lender may require Borrower to immediately deposit with Lender the amount necessary to satisfy such lien or claim and any costs, pending resolution thereof Lender may use such deposit to satisfy any claim or lien that is adversely determined against Borrower.

Borrower shall file a valid notice of cessation or notice of completion upon cessation of work on the Project for a continuous period of 30 days or more, and take all other reasonable steps to forestall the assertion of claims of lien against the Property. Borrower authorizes Lender, but without any obligation, to record any notices of completion or cessation of labor, or any other notice that Lender deems necessary or desirable to protect its interest in the Project and Property.

4.12 **RELOCATION.** If and to the extent that development of the Project results in the permanent or temporary displacement of residential tenants, homeowners, or businesses, Borrower shall comply with all applicable local, state and federal statutes and regulations with respect to relocation planning, advisory assistance, and payment of monetary benefits. Borrower shall be solely responsible for payment of any relocation benefits to any displaced persons and any other obligations associated with complying with said relocation laws.

4.13 **UNAVOIDABLE DELAY IN PERFORMANCE.** The time for performance of provisions of this Loan Agreement by either party shall be extended for a period equal to the period of any delay directly affecting the Project or this Loan Agreement which is caused by: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; acts of God; quarantine restrictions; or freight embargoes or other events beyond the reasonable control of the party claiming the delay. An extension of time for any of the above-specified causes will be deemed granted only if written notice by the party claiming such extension is sent to the other party within five (5) calendar days from the commencement of the cause, and such extension of time is either accepted by the other party in writing, or is not rejected in writing by the other party within ten calendar days of receipt of the notice. In any event, construction of the Project must be completed no later than ninety (90) calendar days after the scheduled completion date specified herein, any unavoidable delay notwithstanding. Times of performance under this Loan Agreement may also be extended for any cause for any period of time by the mutual written agreement of Lender and Borrower.

ARTICLE 5 OPERATION

5.1 **OPERATION OF PROJECT.** Borrower shall operate and manage the Project after completion in full conformance with the terms of the Regulatory Agreement.

Borrower shall agree to maintain and operate the Assisted Units so as to provide decent, safe, and sanitary housing and provide each of the Assisted Units in the Project with the same level of services (including security), amenities, and maintenance as are applied to the other dwelling units in the Project. Borrower shall provide supportive services as required by the provision of any project-based Section 8 vouchers. Any optional services provided must be available to all residents under the same terms and conditions.

5.2 **ASSISTED UNITS.** The six (6) designated Assisted Units, all of which shall be reserved for Very Low Income Households, shall meet the following standards:

A. Units, similarly constructed and of comparable quality and size to all other units in the Project; and

B. Provide tenants access and enjoyment of all common areas and facilities of the Project on the same basis as tenants of other units.

5.3 **INCOME CERTIFICATION.** Borrower shall limit for the full term of the Regulatory Agreement the rental of Assisted Units to Qualifying Households according to the schedule contained in Regulatory Agreement. The income levels and other qualifications of applicants for Assisted Units shall be certified within sixty (60) business days of the household's expected occupancy of one of the Assisted Units and annually thereafter.

5.4 **AFFORDABILITY RESTRICTIONS.** Six (6) units in the Project shall be designated as Assisted Units. The Assisted Units must be occupied, or reserved for occupancy by Qualifying Households.

5.5 **ASSISTED UNIT RENTS.** Rents for Assisted Units shall be limited to Qualifying Rents and as further set forth in the Regulatory Agreement. At least sixty (60) calendar days prior to increasing rents on any Assisted Unit on the Project, Borrower shall submit to the Lender for review and approval a written request for such increase. Qualifying Households shall be given at least thirty (30) days written notice prior to any rent increase. Provided such increased rent does not exceed the Qualifying Rents for such year, Lender shall approve such request.

5.6 **CERTIFICATION OF HOUSEHOLD INCOME.**

Borrower shall annually certify each tenant household's gross income and make any rent adjustment pursuant to the terms of the Regulatory Agreement.

5.7 **CONFLICTS BETWEEN COVENANTS OR RESTRICTIONS AFFECTING THE PROPERTY.** Any conflicts between the restrictive provisions contained in

this Loan Agreement, Note, Deed of Trust, Regulatory Agreement, and any other agreements in connection with the Loan which affect the Property, are to be resolved by applying the more restrictive covenants or restrictions which affect the Property.

5.8 **NONDISCRIMINATION.** Borrower shall not discriminate or segregate in the rehabilitation, use, enjoyment, occupancy, conveyance, lease, sublease, or rental of any part of the Property on the basis of race, color, ancestry, national origin, religion, sex, sexual preference or orientation, age, marital status, family status, source of income, physical or mental disability, Acquired Immune Deficiency Syndrome (AIDS) or AIDS-related conditions (ARC) acquired or perceived, or any other arbitrary basis. Borrower shall otherwise comply with all applicable local, state, and federal laws concerning discrimination in housing.

5.8 **RECORDS.** Borrower shall be accountable to Lender for all funds disbursed to Borrower pursuant to the Loan Documents. Borrower agrees to maintain records that accurately and fully show the date, amount, purpose, and payee of all expenditures drawn from Loan funds, and to keep all invoices, receipts, and other documents related to expenditures from said Loan funds for not less than five years after completion of the Project. Records must be kept accurate and current. Lender shall notify Borrower of any records it deems insufficient. Borrower shall have fifteen (15) calendar days from the date of said notice to correct any deficiency in the records specified by Lender in said notice, or, if more than fifteen (15) days shall be reasonably necessary to correct the deficiency, Borrower shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible.

Borrower shall promptly comply with all requirements or conditions of the Loan Documents relating to notices, extensions, and other events required to be reported or requested. Borrower shall promptly supply, upon the request of Lender, any and all information and documentation which involves the Project and cooperate with Lender in the development and construction of the Project.

5.9 **AUDITS.** Borrower shall make available for examination at reasonable intervals and during normal business hours to Lender all books, accounts, reports, files, and other papers or property with respect to all matters covered by these Loan Documents, and shall permit Lender to audit, examine, and make excerpts or transcripts from such records. Lender may make audits of any conditions relating to this Loan.

5.10 **ENCUMBRANCE OF PROPERTY.** Except as otherwise provided in this Loan Agreement for the Senior Loans (and any refinancing thereof) and the CDBG Loan, Borrower shall not engage in any financing or any other transaction creating any security interest or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or allow any encumbrance or lien to be made on or attached to the Property, except with the prior written consent of Lender. Borrower shall notify Lender in writing in advance of any financing secured by any deed of trust, mortgage, or other similar lien instrument that it proposes to enter into with respect to the Project or Property, and of any encumbrance or lien that has been created on or attached to the Property whether by voluntary act of Borrower or otherwise.

5.11 **SUBORDINATION**. Lender shall subordinate the obligations of this Loan Agreement, and the attached Regulatory Agreement and Deed of Trust to be recorded on the Property, to the Senior Loans and any refinancing thereof. Borrower and Lender shall cooperate in the execution of any such subordination agreement required to perfect such subordinations. Such subordination agreements may be executed by the City Housing Director or Designee on behalf of the City.

5.12 **TRANSFER OF PROPERTY.** Borrower has not made or created, and shall not, make or permit any sale, assignment, conveyance, lease (other than the leasing of units in the Project pursuant to an approved lease), or other transfer of this Loan Agreement, the Project, or the Property, or any part thereof, without the prior written consent of Lender.

5.13 **FEES, TAXES, AND OTHER LEVIES.** Borrower shall be responsible for payment of all fees, assessments, taxes, charges, and levies imposed by any public authority or utility company with respect to the Property or the Project, and shall pay such charges prior to delinquency. However, Borrower shall not be required to pay and discharge any such charge so long as (a) the legality thereof is being contested diligently and in good faith and by appropriate proceedings, and (b) if requested by Lender, Borrower deposits with Lender any funds or other forms of assurance Lender in good faith from time to time determines appropriate to protect Lender from the consequences of the contest being unsuccessful.

5.14 **DAMAGE TO PROPERTY.** If any building or structure on the Property is damaged or destroyed by an insurable cause, Borrower shall, at its cost and expense, diligently undertake to repair or restore said buildings and structures consistent with the original scope of work for the Project approved by the Lender pursuant to Section 4.1 if Borrower reasonably determines that such restoration or repair is economically feasible. Such work or repair shall be commenced within 120 days after the damage or loss occurs and shall be complete within one year from such commencement, subject to any extensions of time granted pursuant to the provisions of Section 4.13. Subject to Borrower's election to rebuild, all insurance proceeds collected for such damage or destruction shall be applied to the cost of such repairs or restoration and, if such insurance proceeds shall be insufficient for such purpose, Borrower shall make up the deficiency.

ARTICLE 6 INDEMNITY AND INSURANCE

6.1 **INDEMNITY AND INSURANCE.** The Borrower agrees to indemnify, defend (with counsel reasonably approved by Lender) and hold harmless the Lender and its authorized elected officials, officers, employees, agents and volunteers ("Indemnities") from any and all claims, actions, losses, damages, and/or liability arising out of this agreement from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the Lender on account of any claim except where such indemnification is prohibited by law. The Borrower's indemnification obligation does not apply to the Lender's gross negligence or willful misconduct. Borrower hereby agrees to procure and maintain insurance in accordance with the provisions of **Exhibit F** attached hereto and incorporated herein by reference.

6.2 **NON-LIABILITY OF OFFICIALS, EMPLOYEES AND AGENTS.** No officials, employees and agents of Lender shall be personally liable to Borrower for any obligation created under the terms of these Loan Documents.

ARTICLE 7 HAZARDOUS MATERIALS

7.1 **REPRESENTATIONS AND WARRANTIES.** After reasonable investigation and inquiry, Borrower hereby represents and warrants to the best of its knowledge, as of the date of this Loan Agreement and except as previously disclosed and acknowledged in writing by Lender or as disclosed by the reports based on environmental audit(s) performed on the Property and submitted to Lender, that (a) the Property is not and has not been a site for the use, generation, manufacture, transportation, storage, or disposal of Hazardous Materials in violation of Federal or State law; (b) the Property is in compliance with all applicable environmental and health and safety laws, regulations, ordinances, administrative decisions, common law decisions (whether federal, state, or local) with respect to Hazardous Materials, including those relating to soil and groundwater conditions ("Hazardous Materials Laws"); (c) there are no claims or actions pending or threatened with respect to the Property by any governmental entity or agency or any other person relating to Hazardous Materials; and (d) there has been no release or threatened release of any Hazardous Materials on, under, or near the Property (including in the soil, surface water, or groundwater under the Property) or any other occurrences or conditions on the Property or on any other real property that could cause the Property or any part thereof to be subject to a land use restriction as set forth under California Health and Safety Code Sections 25220, et seq., or regulations adopted therewith.

7.2 **NOTIFICATION TO LENDER.** Borrower shall promptly notify Lender in writing of: (a) the discovery of any concentration or amount of Hazardous Materials of which Borrower becomes aware on or under the Property requiring notice to be given to any governmental entity or agency under Hazardous Materials Laws; (b) any knowledge by Borrower (after verification of the veracity of such knowledge to Borrower's reasonable satisfaction) that the Property does not comply with any Hazardous Materials Laws; (c) the receipt by Borrower of written notice of any Hazardous Materials claims; and (d) the discovery by Borrower of any occurrence or condition on the Property that could cause the Property or any part thereof to be subject to a land use restriction as set forth under California Health and Safety Code Sections 25220, et seq., or regulations adopted therewith.

7.3 **USE AND OPERATION OF PROPERTY.** Neither Borrower, nor any agent, employee, or contractor of Borrower, nor any authorized user of the Property shall use the Property or allow the Property to be used for the generation, manufacture, storage, disposal, or release of Hazardous Materials. Borrower shall comply and cause the Project to comply with Hazardous Materials Laws.

7.4 **REMEDIAL ACTIONS.** If Borrower has actual knowledge of the presence of any Hazardous Materials on or under the Property, Borrower shall take, at no cost or expense to Lender, all handling, treatment, removal, storage, decontamination, cleanup, transport, disposal or other remedial action, if any, required by any Hazardous Materials Laws or by any orders or requests of any governmental entity or agency or any judgment, consent decree, settlement or

compromise with respect to any Hazardous Materials claims. The foregoing, however, shall be subject to Borrower's right of contest below.

7.5 **RIGHT OF CONTEST.** Borrower may contest in good faith any claim, demand, levy or assessment under Hazardous Materials Laws if (a) the contest is based on a material question of law or fact raised by Borrower in good faith, (b) Borrower promptly commences and thereafter diligently pursues the contest, (c) the contest will not materially impair the taking of any remedial action with respect to such claim, demand, levy or assessment, and (d) if requested by Lender, Borrower deposits with Lender any funds or other forms of assurance Lender in good faith from time to time determines appropriate to protect Lender from the consequences of the contest being unsuccessful and any remedial action then reasonably necessary. No Event of Default shall be deemed to exist with respect to any claim, demand, levy or attachment being contested by Borrower under the conditions of this section.

7.6 **ENVIRONMENTAL INDEMNITY.** Borrower shall defend, indemnify, and hold Lender free and harmless against any claims, demands, administrative actions, litigation, liabilities, losses, damages, response costs, and penalties, including all costs of legal proceedings and reasonable attorney's fees, that Lender may directly or indirectly sustain or suffer as a consequence of any inaccuracy or breach of any representation, warranty, agreement, or covenant contained in this Loan Agreement with respect to Hazardous Materials, or as a consequence of any use, generation, manufacture, storage, release, or disposal (whether or not Borrower knew of same) of any Hazardous Materials occurring prior to or during Borrower's use or occupancy of the Property.

ARTICLE 8 DEFAULT AND REMEDIES

8.1 **EVENTS OF DEFAULT.** The occurrence of any of the following events shall constitute an "Event of Default" under this Loan Agreement:

A. Monetary. (1) Borrower's failure to pay when due any sums payable under the Note or any advances made by Lender under the Deed of Trust or this Loan Agreement; (2) Borrower's use of Loan funds for costs other than approved costs or for uses inconsistent with other terms and restrictions in the Loan Documents; (3) Borrower's failure to obtain and maintain the insurance coverage required under this Loan Agreement; (4) Borrower's failure to make any other payment or assessment due under the Loan Documents; (5) Borrowers failure to pay taxes owed; and (6) Borrower's default under other debt secured by the Property after the applicable notice and cure periods have expired;

B. Project Development and Construction. (1) Borrower's substantial deviation in the development and construction work specified in the scope of work submitted to Lender, without Lender's prior written consent; (2) Borrower's use of defective or unauthorized materials or defective workmanship in development and construction of the Project; (3) Borrower's failure to commence or complete construction work according to the schedule specified in this Loan Agreement; (4) the cessation of construction work prior to completion of the Project for a period of more than thirty (30) continuous calendar days without proper justification; (5) Borrower's failure to remedy any deficiencies in recordkeeping or failure to

provide records to Lender upon Lender's reasonable request; and (6) Borrower's failure to substantially comply with any applicable federal, state, or local laws or Lender policies governing Project development and construction;

C. Operation. (1) Discrimination by Borrower on the basis of characteristics prohibited by applicable law or (2) the imposition of any encumbrances or liens on the Property without Lender's prior written approval that are prohibited under this Loan Agreement or that have the effect of reducing the priority of or invalidating the Deed of Trust;

D. General performance of Loan obligations. Any substantial breach by Borrower beyond applicable notice and cure periods of any material obligations on Borrower imposed in the Loan Documents;

E. General performance of other obligations. Any substantial or continuous breach by Borrower beyond applicable notice and cure periods of any material obligations on Borrower imposed by any other agreements, including any grant agreements, with respect to the financing, construction, or operation of the Project or the Property, whether or not Lender is a party to such agreement which may materially impair Lender's security;

F. Representations and warranties. A determination by Lender that its security has or will be materially impaired due to the fact that any of Borrower's representations or warranties made in the Loan Documents, or any certificates, documents, or schedules supplied to Lender by Borrower were untrue in any material respect when made, or that Borrower concealed or failed to disclose a material fact from Lender;

G. Damage to Property. Material damage or destruction to the Property by fire or other casualty, if Borrower does not take steps to reconstruct the Property as required by the Loan Documents;

H. Bankruptcy, dissolution, and insolvency. Borrower's (1) filing for bankruptcy, dissolution, or reorganization, or failure to obtain a full dismissal of any such involuntary filing brought by another party before the earlier of final relief or ninety (90) days after the filing; (2) making a general assignment for the benefit of creditors; (3) applying for the appointment of a receiver, trustee, custodian, or liquidator, or failure to obtain a full dismissal of any such involuntary application brought by another party before the earlier of final relief or ninety (90) days after the filing; (4) insolvency; and (5) failure, inability or admission in writing of its inability to pay its debts as they become due.

8.2 **NOTICE OF DEFAULT AND OPPORTUNITY TO CURE.** For all Events of Default, Lender shall give written notice to Borrower of any Event of Default by specifying: (a) the nature of the event or deficiency giving rise to the Default, (b) the action required to cure the deficiency, if an action to cure is possible, and (c) a date, which shall not be less than thirty (30) calendar days from the date of receipt of the notice or the date the notice was refused, by which such action to cure must be taken or if a cure is not possible within thirty (30) days, to begin such cure and diligently prosecute such to completion which shall, in any event, not exceed

ninety (90) days from the date of receipt of the notice to cure. The Lender has the sole discretion to determine whatever additional reasonable time is needed to cure.

8.3 **LENDER'S REMEDIES.** Upon the happening of an Event of Default by Borrower and a failure to cure said Event of Default within the time specified in Section 8.2 above, Lender's obligation to disburse Loan proceeds shall terminate, and Lender may also, in addition to other rights and remedies permitted by the Loan Documents or applicable law, proceed with any or all of the following remedies in any order or combination Lender may choose in its sole discretion:

A. Terminate this Loan Agreement, in which event the entire principal amount outstanding and all accrued interest under the Note, as well as any other monies advanced to Borrower by Lender under the Loan Documents including administrative costs, shall immediately become due and payable at the option of Lender;

B. Bring an action in equitable relief (1) seeking the specific performance by Borrower of the terms and conditions of the Loan Documents, and/or (2) enjoining, abating, or preventing any violation of said terms and conditions, and/or (3) seeking declaratory relief;

C. Accelerate the Loan, and demand immediate full payment of the principal amount outstanding and all accrued interest under the Note, as well as any other monies advanced to Borrower by Lender under the Loan Documents;

D. Enter the Property and take any actions necessary in its judgment to complete development of the Project, including without limitation (1) making changes in the Scope of Work or other work or materials with respect to the Project, (2) entering into, modifying, or terminating any contractual arrangements (subject to Lender's right at any time to discontinue work without liability), and (3) taking any remedial actions with respect to Hazardous Materials that Lender deems necessary to comply with Hazardous Materials Laws or to render the Property suitable for occupancy;

E. Seek appointment from a court of competent jurisdiction of a receiver with the authority to complete development of Project as needed to preserve Lender's interest in seeing the Project completed in a timely manner (including the authority to take any remedial actions with respect to Hazardous Materials that Lender or the receiver deems necessary to comply with Hazardous Materials Laws or to render the Property suitable for occupancy);

F. Order immediate stoppage of development of Project and demand that any condition leading to the Event of Default be corrected before development of Project may continue;

G. Disburse from Loan proceeds any amount necessary to cure any monetary default;

H. Enter upon, take possession of, and manage the Property, either in person, by agent, or by a receiver appointed by a court, and collect rents and other amounts specified in

the assignment of rents in the Deed of Trust and apply them to operate the Property or to pay off the Loan or any advances made under the Loan Documents, as provided for by the Deed of Trust;

I. Initiate and pursue any private and/or judicial foreclosure action allowed under applicable law and the power of sale provision in the Deed of Trust;

J. With respect to defaults under Hazardous Materials provisions herein, pursue the rights and remedies permitted under California Civil Code Section 2929.5, and California Code of Civil Procedure Sections 564, 726.5, and 736; or

K. Pursue any other remedy allowed at law or in equity. Nothing in this section is intended or shall be construed as precluding Lender from proceeding with a nonjudicial foreclosure under the power of sale contained in the Deed of Trust in the Event of Default by Borrower.

ARTICLE 9 GENERAL PROVISIONS

9.1 **BORROWER'S WARRANTIES.** Borrower represents and warrants (1) that it has access to professional advice and support to the extent necessary to enable Borrower to fully comply with the terms of these Loan Documents and the Regulatory Agreement, and to otherwise carry out the Project, (2) that it is duly organized, validly existing and in good standing under the laws of the State of California, (3) that it has the full power and authority to undertake the Project and to execute the Loan Documents, (4) that the persons executing and delivering the Loan Documents are authorized to execute and deliver such documents on behalf of Borrower, (5) that there has been no substantial adverse change in Borrower's financial condition since the date of application for this loan such as judgment liens, tax liens, mechanic's liens, bankruptcy, etc.; and (6) that all representations in the Borrower's loan application (including all supplementary submissions) are true, correct and complete in all material respects and are offered to induce Lender to make this loan.

9.2 **MONITORING AND EVALUATION.** Except as otherwise provided for in this Loan Agreement, Borrower shall maintain and submit records to Lender within ten (10) business days of Lender's request which clearly document Borrower's performance under each requirement of the Loan Documents. Borrower shall pay to Lender an annual monitoring fee on January 1 of the year following issuance of the Notice of Completion and every January 1 during the term of the Regulatory Agreement in the amount of One Hundred Fifteen Dollars ($115) per Assisted Unit.

9.3 **CONFLICTS OF INTEREST.** Borrower covenants that:

A. Except for approved eligible administrative or personnel costs, no person described in subsection (B) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this contract or who is in a position to participate in a decision-making process or gain inside information with regard to

such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. The Borrower shall exercise due diligence to ensure that the prohibition in this Section is followed.

B. The conflict of interest provisions of Section 9.3(A) above apply to any person defined in California Government Code section 1090 and an employee, agent, consultant, officer, or any immediate family member of such person, or any elected or appointed official of the City, or any person related within the third (3rd) degree of such person.

9.4 **POLITICAL ACTIVITY.** None of the funds, materials, property or services contributed by Lender or Borrower under this Loan Agreement shall be used for any partisan political activity or the election or defeat of any candidate for public office.

9.5 **TERM OF THIS AGREEMENT.** This Loan Agreement shall commence on the Effective Date and remain in full force and effect throughout the term of this Loan.

9.6 **GOVERNING LAW.** The Loan Documents shall be interpreted under and be governed by the laws of the State of California, except for those provisions relating to choice of law or those provisions preempted by federal law.

9.7 **STATUTORY REFERENCES.** All references in the Loan Documents or Regulatory Agreement to particular statutes, regulations, ordinances, or resolutions of the United States, the State of California, or the City of Oxnard shall be deemed to include the same statute, regulation, ordinance, or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject as the provision to which specific reference was made.

9.8 **TIME.** Time is of the essence in these Loan Documents.

9.9 **CONSENTS AND APPROVALS.** Any consent or approval of Lender or Borrower required under the Loan Documents shall not be unreasonably withheld or conditioned. Any approval required under the Loan Documents shall be in writing and executed by an authorized representative of the party granting the approval.

9.10 **NOTICES, DEMANDS AND COMMUNICATIONS.** Formal notices, demands and communications between Borrower and Lender shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, to the principal offices of Borrower and Lender as follows:

LENDER: City of Oxnard
Affordable Housing Program
435 South D Street
Oxnard, CA 93030

Attn: Housing Director

BORROWER: Etting Road, LLC
c/o Cabrillo Economic Development Corporation
702 County Square Drive, Suite 200
Ventura, CA 93003
Attn: Chief Executive Officer

With copy to: Goldfarb & Lipman LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612
Attn: Lynn Hutchins

9.11 **BINDING UPON SUCCESSORS.** All provisions of these Loan Documents shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors-in-interest, transferees, and assigns of each of the parties; provided, however, that this section does not waive the prohibition on assignment of this Loan Agreement by Borrower without Lender's consent.

9.12 **RELATIONSHIP OF PARTIES.** The relationship of Borrower and Lender for this Project under this Loan Agreement is and at all times shall remain solely that of a debtor and a creditor, and shall not be construed as a joint venture, equity venture, partnership, or any other relationship. Lender neither undertakes nor assumes any responsibility or duty to Borrower (except as provided for herein) or any third party with respect to the Project, the Property, or the Loan.

9.13 **ASSIGNMENT AND ASSUMPTION.** Borrower shall not assign any of its interests under this Loan Agreement or the Loan Documents to any other party, except as specifically permitted under the terms of the Loan Documents, without the prior written consent of Lender. Any unauthorized assignment shall be void.

9.14 **WAIVER.** Any waiver by Lender of any obligation in these Loan Documents must be in writing. No waiver will be implied from any delay or failure by Lender to take action on any breach or default of Borrower or to pursue any remedy allowed under the Loan Documents or applicable law. Any extension of time granted to Borrower to perform any obligation under the Loan Documents shall not operate as a waiver or release from any of its obligations under the Loan Documents. Consent by Lender to any act or omission by Borrower shall not be construed to be consent to any other or subsequent act or omission or to waive the requirement for Lender's written consent to future waivers.

9.15 **INTEGRATION.** This Loan Agreement and the other Loan Documents, including exhibits, executed by Borrower for the Property, if any, contain the entire agreement of the parties and supersede any and all prior negotiations.

9.16 **OTHER AGREEMENTS.** Borrower represents that it has not entered into any agreements that are inconsistent with the terms of the Loan Documents. Borrower shall not enter into any agreements that are inconsistent with the terms of the Loan Documents without an express waiver by Lender in writing.

9.17 **AMENDMENTS AND MODIFICATIONS.** Any amendments or modifications to the Loan Documents must be in writing, and shall be made only if executed by both Borrower and Lender.

9.18 **SEVERABILITY.** Every provision of this Loan Agreement is intended to be severable. If any provision of this Loan Agreement shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

[Signatures on Following Page]

IN WITNESS WHEREOF, Lender and Borrower have caused this Loan Agreement to be executed by their duly authorized representatives.

LENDER:
THE CITY OF OXNARD

BORROWER:
ETTING ROAD LLC, a California limited company

By: Cabrillo Economic Development Corporation, a California nonprofit public benefit corporation, its sole member and manager

Housing Director

By: Victoria J Brady
Chief Executive Officer

APPROVED AS TO FORM:

Stephen Fischer
City Attorney

APPROVED AS TO INSURANCE:

Michael More
Human Resources/Risk Manager

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

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

A PORTION OF PARCEL H, SUBDIVISION 72 RANCHO EL RIO DE SANTA CLARA O' LA COLONIA, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF VENTURA COUNTY, IN BOOK 3. MISCELLANEOUS RECORDS AT PAGE 14, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4 INCH IRON PIPE SET IN THE SOUTHERLY LINE OF PLEASANT VALLEY ROAD DISTANT THEREON NORTH 59° 15' 30" EAST 250.73 FEET FROM A 4" X 4" POST SET AT THE MOST WESTERLY CORNER OF SAID PARCEL H; THENCE FROM SAID POINT OF BEGINNING.

1ST: NORTH 59° 15' 30" EAST 424.64 FEET ALONG THE SOUTHERLY LINE OF SAID PLEASANT VALLEY ROAD TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1848; THENCE,

2ND: SOUTH 345.13 FEET TO A NAIL AND METAL TAG STAMPED SGB LS 1848 SET IN THE SOUTH SIDE OF A LARGE EUCALYPTUS TREE IN THE NORTH LINE OF ETTING ROAD; THENCE ALONG SAID NORTH
LINE.

3RD: WEST 365.00 FEET TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1842; THENCE,

4TH: NORTH 128.2 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL RIGHT, TITLE AND INTEREST OF THE GRANTOR IN AND TO ALL OIL, GAS, MINERALS, HYDROCARBONS AND ASSOCIATED SUBSTANCES IN, UNDER OR PRODUCED AND SAVED FROM SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY TO THE SURFACE OF THE PROPERTY OR THE TOP FIVE HUNDRED (500) FEET OF THE SUBSURFACE THEREOF MEASURED VERTICALLY FROM THE SURFACE (COLLECTIVELY "MINERAL RIGHTS") AS RESERVED IN DEED RECORDED SEPTEMBER 10, 2015 AS INSTRUMENT NO. 2015-00136187, OFFICIAL RECORDS OF SAID COUNTY.

APN: 225-0-014-020

EXHIBIT B

PROMISSORY NOTE

PROMISSORY NOTE
Affordable Housing Assistance
(Secured by Deed of Trust)

$631,900 Oxnard, California
_____, 2025

FOR VALUE RECEIVED, the undersigned, Etting Road LLC, a California limited liability company ("Borrower"), hereby promises to pay to the order of the City of Oxnard, a municipal corporation ("Lender"), the principal sum of Six Hundred and Thirty-One Thousand Nine Hundred Dollars ($631,900) with interest on the unpaid balance thereof from the date of each advance evidenced by this Note set forth above until repaid at the rate of three percent (3%) simple interest (except as otherwise provided herein). The term Loan as used herein, means the Loan evidenced by this Note. The Loan is made pursuant to the terms of an Affordable Housing Loan Agreement (the "Loan Agreement") dated as of _____, 2025, and Regulatory Agreement ("Regulatory Agreement") executed concurrently herewith between Borrower and Lender. Both principal and interest are payable as hereinafter provided, to Lender at 435 South D Street, Oxnard, California 93030, Attention: Housing Director, or at such other place as from time to time may be designated by the holder of this Note.

All of the provisions of this Note are agreements which are secured by the Deed of Trust securing this Note. A default in observance of any of the provisions is a default with consequences under the Deed of Trust. All terms not otherwise defined in this Note have the meaning assigned to such terms in the Agreement.

1. **DEFINITIONS.** Any term not defined herein shall have the meanings set forth in the Loan Agreement.

2. **PAYMENT PROVISIONS**: The following payment provisions apply to this Note:

A. Promise to Pay. Borrower promises to pay to the order of Lender the principal sum of Six Hundred and Thirty-One Thousand Nine Hundred Dollars ($631,900), plus interest thereon and other charges due under this Note, all in the manner provided below. Interest shall accrue at the rate of 3% simple interest on funds advanced, commencing on the date of each advance.

B. Payments. Borrower promises to pay interest, principal, and all other sums which may become due on the Note as follows:

(1) All sums outstanding under this Note shall be due and payable 55 years from the issuance of a Notice of Completion for the Project.

(2) All sums outstanding under this Note shall without any reduction become immediately due and payable upon any default under this Note, upon any transfer (including hypothecation) of the Property securing payment of this Note not permitted by the Loan Agreement, upon any change in

ownership or composition of the Borrower not permitted under the Loan Agreement or Regulatory Agreement, or upon any other breach or default of the Loan Agreement or the Regulatory Agreement.

(3) All other payments shall be made annually ("Annual Payment"), commencing on July 1st of the year following the issuance of a Notice of Completion for the Project, and each July 1st thereafter;

i. Borrower shall make an Annual Payment equal to thirty-five and eleventh hundredths percent (35.11%) of Residual Receipts for the previous calendar year commencing on the July 1st after all Senior Loans have been fully repaid and on every July 1st thereafter. The Borrower shall provide the City with any documentation reasonably requested by the City to substantiate the Borrower's determination of the Revenue, Operating Expenses, and Annual Payment. The City shall apply all Annual Payments first to accrued interest, and second to principal. In the event that the City determines that there is an understatement in the amount of an Annual Payment due to City, Borrower shall promptly pay to City such understatement, but in any event, no later than within twenty (20) days of notice of such understatement. In the event that City determines that there has been an overpayment in an Annual Payment due to City, City shall pay to Borrower the amount of overpayment promptly, but in any event, within twenty (20) days of such determination. If contested, Borrower has the right to pay under protest and request an audit by an independent certified public accountant. On or before each Annual Payment the Borrower shall submit its Annual Financial Statement to City for the preceding calendar year together with the required Annual Payment for the preceding calendar year and each Payment Date thereafter until the Loan is paid in full or otherwise terminated. City shall review and approve the amount to be paid by Borrower and the Annual Financial Statement, or request revisions, within sixty (60) days after receipt. In the event City fails to approve or disapprove the Annual Financial Statement within the sixty (60) day period, Borrower may request a written determination of approval or disapproval following the expiration of such period. In the event City fails to provide a written determination to Borrower within ten (10) days following the receipt of Borrower's request for determination, the Annual Financial Statement shall be deemed approved.

3. **PAST DUE PRINCIPAL AND INTEREST**. Any amount of principal or interest on the Loan or any fee or expense or other amount payable hereunder shall, to the extent permitted

by law, bear interest from such payments due date until paid at the rate of 10% per annum, which interest shall be immediately due and payable.

4. **NO DEDUCTIONS, NO OFFSETS**. All payments of principal and interest hereunder shall be made without deduction of any present and future taxes, levies, duties, imposts, deductions, charges or withholdings imposed by any existing or future law, rule, regulation, treaty, directive or requirement whether or not having the force of law, which amounts shall be paid by Borrower. Borrower will pay the amounts necessary such that the gross amount of the principal and interest received by Lender is not less than that required by this Note. All stamp and documentary taxes shall be paid by Borrower. If, notwithstanding the foregoing, Lender pays any such taxes, Borrower will reimburse Lender for the amount paid, as additional interest, within five (5) days of Lender's demand for payment. Borrower will furnish Lender official tax receipts or other evidence of payment of all such amounts.

5. **ABSENCE OF USURY**. Borrower and Lender intend that the Loan be exempt from the restrictions contained in the California usury law, or if not exempt, that the Loan shall be in compliance with any applicable usury law. In furtherance thereof, Borrower and Lender agree that none of the terms and provisions contained in this Note, or in any other instrument executed in connection herewith, shall ever be construed to create a contract to pay for the use, forbearance or detention of money, or interest at a rate in excess of the maximum interest rate permitted to be charged by applicable law. Therefore, if a court ultimately determines that the Loan is not exempt from the California usury law, or if a court determines that the usury law of another jurisdiction should be applied to the Loan: (a) neither Borrower nor any endorsers or other parties now or hereafter becoming liable for payment of this Note shall ever be required to pay interest on this Note at a rate in excess of the maximum interest that may be lawfully charged under applicable law, and the provisions of this Section shall control over all other provisions of this Note and any other instruments now or hereafter executed in connection herewith; (b) if the maturity hereof shall be accelerated for any reason or if the principal of this Note is paid prior to the end of the term of this Note, and as a result thereof the interest received for the actual period of existence of the Loan would be unlawful, the holder of this Note shall refund to Borrower the amount of such excess or shall credit the amount of such excess against the principal balance of the Note then outstanding; and (c) in the event that Lender or any other holder of this Note shall collect monies which are deemed to constitute interest which would increase the effective interest rate on this Note to a rate in excess of that permitted to be charged by applicable law, all such sums deemed to constitute interest in excess of the legal rate shall, upon such determination, at the option of the holder of this Note, be first, credited against the principal balance of this Note then outstanding, and second, returned to the Borrower.

6. **PREPAYMENT**. This Note may be prepaid in whole or in part without penalty or charge.

7. **ATTORNEY'S FEES**. Should the indebtedness represented by this Note or any part thereof be collected at law or in equity or through any bankruptcy (including, without limitation, any action for relief from the automatic stay or any other bankruptcy proceeding) receivership, probate or other court proceedings or by any judicial or non-judicial foreclosure proceeding, or if this Note is placed in the hands of attorneys for collection after default, the Borrower and all

endorsers, guarantors and sureties of this Note jointly and severally agree to pay, in addition to the principal and interest due and payable hereon, reasonable attorneys' fees and collection costs and expenses. Should any action be brought to construe, clarify, or obtain a declaration as to the terms of this Note or the parties' obligations under it, the prevailing party in such action shall recover its reasonable attorneys' fees.

8. **WAIVER OF PRESENTMENT**. Borrower, and any and all endorsers, guarantors and sureties of this Note, and all other persons liable or to become liable on this Note, jointly and severally waive presentment for payment, demand, notice of demand and of dishonor and nonpayment of this Note, notice of intention to accelerate the maturity of this Note, protest and notice of protest, diligence in collecting, and the bringing of suit against any other party, and agree to all renewals, extensions, modifications, partial payments, releases or substitutions of security, in whole or in part, with or without notice, before or after maturity. The pleading of any statute of limitations as a defense to any demand against the makers, endorsers, guarantors and sureties is expressly waived by each and all such parties to the extent permitted by law.

9. **LOSS OF NOTE**. Upon notice from any holder to Borrower of the loss, theft, destruction or mutilation of this Note and, upon receipt of indemnity reasonably satisfactory to Borrower from any holder of this Note (except that if Lender is the holder of this Note, an indemnification from Lender shall be sufficient) or, in the case of mutilation hereof, upon surrender of the mutilated Note, Borrower will make and deliver a new note of like tenor in lieu of this Note.

10. **SUCCESSORS AND ASSIGNS**. This Note shall be binding upon and shall inure to the benefit of Borrower and Lender, and their successors and assigns.

11. **SEVERABLE PROVISIONS**. Every provision of this Note is intended to be severable. If any term or provision hereof is declared by a court of competent jurisdiction to be illegal, invalid or unenforceable for any reason whatsoever, such illegality, invalidity or enforceability shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

12. **NOTICES**. Notices, demands, requests, elections, approvals, disapprovals, consents or other communications given under this Note shall be in writing and shall be given by personal delivery, mail or telegram or facsimile and addressed, if to Lender, 435 South "D" Street, Oxnard, California 93030, or if to Borrower, at 702 County Square Drive, Suite 200, Ventura, CA 93003, Attn: Chief Executive Officer. Notice by personal delivery shall be deemed effective upon the delivery of such notice to the party for whom it is intended at the recipient's address. Notice by mail shall be deemed effective two (2) business days after depositing such notice, certified or registered mail, postage prepaid, properly stamped and sealed, with the United States Postal Service, properly addressed regardless of whether or when the notice is actually received by the addressee. Either party may give notice of any change of address in accordance with the notice procedures described above.

13. **DEFAULT**. Any failure to perform any obligation of Borrower under this Note, the Deed of Trust, the Loan Agreement, or the Regulatory Agreement shall be considered a default hereunder.

14. **JOINT AND SEVERAL**. The obligations of Borrower in this Note shall be joint and several obligations of Borrower and of each Borrower, if more than one, and of each of Borrower's heirs, devisees, legatees, administrators, executors, personal representatives, successors and assigns.

15. **GENDER**. In this Note, whenever the context so requires, the masculine gender includes feminine and/or neuter, and the singular number includes the plural.

16. **TIME OF ESSENCE**. Time is of the essence in this Note and the performance of each of the covenants and agreements contained herein.

17. **GOVERNING LAW**. This Note shall be construed and enforced in accordance with the laws of the State of California.

18. **AUTHORITY**. The person executing this Note represents and warrants that such person has the authority to execute this Note and bind borrower to its provisions.

19. **CAPTIONS AND REFERENCES**. The captions of the Paragraphs of this Note are for the purposes of convenience only and are not intended to be part of this Note and shall not be deemed to modify, explain, enlarge or restrict any of the provisions hereof. All "Paragraph" references are to the paragraphs of this Note, unless otherwise indicated.

20. **SECURITY**. This Note is secured by a deed of trust executed concurrently herewith, encumbering the property described therein.

21. **NONRECOURSE OBLIGATION.** Except as expressly provided in the second paragraph of this section, the Borrower, and the Borrower's officers, directors, employees and agents shall not have any direct or indirect personal liability for payment of the principal of, or interest on, the Note or the performance of the covenants of the Borrower under the Deed of Trust securing the Note. The sole recourse of the Beneficiary with respect to the principal of, or interest on, the Note shall be to the property securing the indebtedness evidenced by the Note. However, that nothing contained in the foregoing limitation of liability shall (a) limit or impair the enforcement against all such security for the Note of all the rights and remedies of the Beneficiary, or (b) be deemed in any way to impair the right of the Beneficiary to assert the unpaid principal amount of the Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Note, except as hereafter set forth; nothing contained herein is intended to relieve the Borrower of personal liability for (a) fraud or willful misrepresentation; (b) the failure to pay taxes, assessments or other charges (which are not contested by Borrower in good faith) which may create liens on the Property that are payable or

applicable prior to any foreclosure under the Deed of Trust (to the full extent of such taxes, assessments or other charges); (c) the fair market value of any personal property or fixtures removed or disposed of by Borrower other than in accordance with the Deed of Trust; (d) the misapplication of any proceeds under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property; and (e) payment to the Beneficiary of any rental income or other income arising with respect to the Property received by the Borrower after the Beneficiary has given notice to the Borrower of the occurrence of an Event of Default, subject to the rights of any lender providing a loan secured by the Property to which the Lender has subordinated the Deed of Trust.

DISCLOSURES. BORROWER HEREBY ACKNOWLEDGES THAT INTEREST IN THIS NOTE MAY AT TIMES TO BE CALCULATED BY HOLDER ON THE BASIS OF A THREE HUNDRED SIXTY (360) DAY YEAR AND IS FULLY AWARE THAT SUCH CALCULATIONS MAY RESULT IN AN ACCRUAL AND/OR PAYMENT OF INTEREST IN AMOUNTS GREATER THAN CORRESPONDING INTEREST CALCULATIONS BASED ON A THREE HUNDRED SIXTY-FIVE (365) DAY YEAR.

ETTING ROAD LLC,

A California limited liability company

By: Cabrillo Economic Development Corporation, a
California nonprofit public benefit corporation,
Its: sole member and manager

_____

By: Victoria J. Brady
Its: Chief Executive Officer

EXHIBIT C

DEED OF TRUST

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO: CITY OF OXNARD Housing Department 435 S D Street Oxnard, CA 93030 Attention: Housing Director No recording fee pursuant to California Government Code Section 27383	
APN: 225-0-014-020	SPACE ABOVE THIS LINE FOR RECORDER'S USE

DEED OF TRUST AFFECTING REAL PROPERTY WITH ASSIGNMENT OF RENTS

(This Deed of Trust contains an acceleration clause)
(Secures Promissory Note, Affordable Housing Loan Agreement, and Regulatory Agreement)

This DEED OF TRUST is made _____, 2025, between Etting Road LLC, a California limited liability company, herein called TRUSTOR, whose address is 702 County Square Drive, Suite 200, Ventura, CA 93003, to Commonwealth Land Title Company, a California corporation, as trustee, herein called TRUSTEE, and the City of Oxnard, a municipal corporation (the "City"), herein called BENEFICIARY,

WITNESSETH: That Trustor grants to Trustee in Trust, with Power of Sale, that property located at 2161 Etting Road, in the City of Oxnard, which is located in Ventura County, California, as more particularly described in Exhibit A (the "Property") attached hereto and incorporated herein by this reference;

Together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon Beneficiary to collect and apply such rents, issues, and profits.

This grant is made for the purpose of securing the performance of each agreement of Trustor incorporated by reference or contained herein; and performance of that certain Affordable Housing Loan Agreement dated _____, 2025, that certain Regulatory Agreement dated _____, 2025, and Promissory Note dated _____, 2025, in the face amount of Six Hundred Thirty One Thousand Nine Hundred Dollars ($631,900) made by Trustor to the order of the Beneficiary. This Deed of Trust secures all obligations of each of the foregoing agreements. Any default in the performance of obligations under any of such agreements is a default under each of the agreements and is a default hereunder, and entitles Beneficiary and Trustee to exercise all rights and remedies herein described.

To protect the security of this Deed of Trust, and with respect to the property above described, Trustor expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the terms and provisions set forth in subdivision A, and it is mutually agreed that each and all of the terms and provisions set forth in subdivision B of the fictitious deed of trust recorded in Orange

County August 17, 1964, and in all other counties August 18, 1964, in the book and at the page of Official Records in the office of the county recorder of the county where said property is located, noted below opposite the name of such county, namely:

COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE	COUNTY	BOOK	PAGE
Alameda	1288	556	Madera	911	136	San Luis Obispo	1311	137
Alpine	3	130-31	Marin	1849	122	San Mateo	4778	175
Amador	133	438	Mariposa	90	453	Santa Barbara	2065	881
Butte	1330	513	Mendocino	667	99	Santa Clara	6626	664
Calaveras	185	338	Merced	1660	753	Santa Cruz	1638	607
Colusa	323	391	Modoc	191	93	Shasta	800	633
Contra Costa	4684	1	Mono	69	302	San Diego Series 5	1964	149774
Del Norte	101	549	Monterey	357	239	Sierra	38	187
El Dorado	704	635	Napa	704	742	Siskiyou	506	762
Fresno	5052	623	Nevada	363	94	Solano	1287	621
Glenn	469	76	Orange	7182	18	Sonoma	2067	427
Humboldt	801	83	Placer	1028	379	Stanislaus	1970	56
Imperial	1189	701	Plumas	166	1307	Sutter	655	585
Inyo	165	672	Riverside	3778	347	Tehama	457	183
Kern	3756	690	Sacramento	5039	124	Trinity	108	595
Kings	858	713	San Benito	300	405	Tulare	25300	108
Lake	437	110	San Bernardino	6213	768	Toulumne	177	160
Lassen	192	367	San Francisco	A-804	596	Ventura	2607	237
Los Angeles	T-3878	874	San Joaquin	2855	283	Yolo	769	16
						Yuba	398	693

shall inure to and bind the parties hereto, with respect to the property above described. Said Agreements, terms and provisions contained in said subdivisions A and B, (identical in all counties, and attached hereto), are by the within reference thereto, incorporated herein and made a part of this Deed of Trust for all purposes as fully as if set forth at length herein (provided that in the event any said provision is inconsistent with the language in this Deed of Trust, the language of this Deed of Trust shall control), and Beneficiary may charge for a statement regarding the obligation secured hereby; provided the charge therefore does not exceed the maximum allowed by law.

The Trustor acknowledges receipt of a copy of such provisions of such fictitious deed of trust.

If the Trustor shall sell, convey or alienate said property, or any part thereof, or any interest therein, or shall be divested of its title or any interest therein in any manner or way, whether voluntarily or involuntarily, in a manner not allowed by the agreements secured by this Deed of Trust or without the written consent of the Beneficiary being first had and obtained, Beneficiary shall have the right, at its option, except as prohibited by law, to declare any indebtedness or obligations secured hereby, irrespective of the maturity date specified in any note evidencing the same, immediately due and payable.

The undersigned Trustor, requests that a copy of any notice of default and any notice of sale hereunder be made to it at its address hereinbefore set forth. Exhibit A is attached hereto and incorporated herein.

(Signature appears on following page)

SIGNATURE OF TRUSTOR

ETTING ROAD LLC,
a California limited liability company

By: Cabrillo Economic Development Corporation, a California nonprofit public benefit corporation,
Its: sole member and manager

_____
By: Victoria J. Brady
Its: Chief Executive Officer

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)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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 Notary Public

(Place Notary Seal Above)

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

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

A PORTION OF PARCEL H, SUBDIVISION 72 RANCHO EL RIO DE SANTA CLARA O' LA COLONIA, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF VENTURA COUNTY, IN BOOK 3. MISCELLANEOUS RECORDS AT PAGE 14, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4 INCH IRON PIPE SET IN THE SOUTHERLY LINE OF PLEASANT VALLEY ROAD DISTANT THEREON NORTH 59° 15' 30" EAST 250.73 FEET FROM A 4" X 4" POST SET AT THE MOST WESTERLY CORNER OF SAID PARCEL H; THENCE FROM SAID POINT OF BEGINNING.

1ST: NORTH 59° 15' 30" EAST 424.64 FEET ALONG THE SOUTHERLY LINE OF SAID PLEASANT VALLEY ROAD TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1848; THENCE,

2ND: SOUTH 345.13 FEET TO A NAIL AND METAL TAG STAMPED SGB LS 1848 SET IN THE SOUTH SIDE OF A LARGE EUCALYPTUS TREE IN THE NORTH LINE OF ETTING ROAD; THENCE ALONG SAID NORTH
LINE.

3RD: WEST 365.00 FEET TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1842; THENCE,

4TH: NORTH 128.2 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL RIGHT, TITLE AND INTEREST OF THE GRANTOR IN AND TO ALL OIL, GAS, MINERALS, HYDROCARBONS AND ASSOCIATED SUBSTANCES IN, UNDER OR PRODUCED AND SAVED FROM SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY TO THE SURFACE OF THE PROPERTY OR THE TOP FIVE HUNDRED (500) FEET OF THE SUBSURFACE THEREOF MEASURED VERTICALLY FROM THE SURFACE (COLLECTIVELY "MINERAL RIGHTS") AS RESERVED IN DEED RECORDED SEPTEMBER 10, 2015 AS INSTRUMENT NO. 2015-00136187, OFFICIAL RECORDS OF SAID COUNTY.

APN: 225-0-014-020

EXHIBIT D

REGULATORY AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

CITY OF OXNARD
Housing Department
435 S D Street
Oxnard, CA 93030
Attention: Housing Director

No recording fee pursuant to California
Government Code Section 27383

APN: 225-0-014-020

SPACE ABOVE THIS LINE FOR RECORDER'S USE

REGULATORY AGREEMENT AND RESTRICTIVE COVENANTS (CITY OF OXNARD)

THIS REGULATORY AGREEMENT (CITY OF OXNARD) ("Regulatory Agreement") is entered into effective _____, 2025, by Etting Road LLC, a California limited liability company ("Developer") in favor of the City of Oxnard, a municipal corporation ("City") pursuant to and in evidence of an "Affordable Housing Loan Agreement" executed by Developer concurrently herewith (the "Loan Agreement").

RECITALS

WHEREAS, Developer is the owner of that certain real property in the City of Oxnard ("City"), County of Ventura, State of California ("Property") described in Exhibit "A" attached hereto and incorporated herein by this reference; and

WHEREAS, Developer and City have entered into the Loan Agreement in which Developer has agreed to construct and operate the Property as an affordable housing project, and City has loaned Six Hundred and Thirty-One Thousand Nine Hundred Dollars ($631,900) to assist in the development of the assisted units within the affordable housing project (the "Project").

NOW, THEREFORE, IN CONSIDERATION FOR CITY'S ASSISTANCE, DEVELOPER COVENANTS AND AGREES FOR THE BENEFIT OF CITY AS FOLLOWS:

AGREEMENT

1. <u>Definitions.</u>

   a. "AMI" the Ventura County Metropolitan Statistical Area as determined by HUD, adjusted for family size.
   b. "Assisted Units" means any six (6) housing units on the Property which are supported by funds under the Loan Agreement.
   c. "Household" means a household having an income equal to or less than the Section 8 very low-income limit established by HUD (i.e. 50% or less of area

median income adjusted for family size by the State Department of Housing and Community Development) pursuant to 24 CFR 570.3.

d. "HUD" means the United States Department of Housing and Urban Development.

e. "Rent" means the total charges for rent, utilities, and related services to each qualifying Household which shall not exceed thirty percent (30%) of fifty percent (50%) of Median Income for the Assisted Units occupied by Very Low-Income Households. Annual rent increases shall be calculated by Lender based on the change in the AMI.

f. "Very-Low Income Household" is a Household with an income not greater than fifty 50% of the AMI.

2. Term. The provisions of this Regulatory Agreement shall remain in effect for a period of 55 years from the issuance of a Notice of Completion for the Project.

3. City Contributions. The City has provided funds for development costs of six (6) affordable apartment units ("Assisted Units").

4. City Conditions. The Project shall meet all City conditions rules and regulations and shall be required to have approval of the Oxnard Planning Commission and City Council as required by City ordinances, resolutions, regulations and requirements.

5. Affordability Requirements. Six (6) units shall be designated as Assisted Units. All of the Assisted Units shall be made available and rented only to Very Low-Income Households. The Assisted Units will be rented at Rent set forth in the definition of Rent. The Assisted Units shall include two (2) one-bedroom units, two (2) two-bedroom units, and (2) three-bedroom units.

6. Construction. All work on the Project shall be performed by contractors, licensed under the laws of the State of California, as Developer may employ from time to time to execute such work. Developer shall comply with all federal, State and local laws and regulations pertaining to construction of the Project, including laws relating to competitive bidding and payment of prevailing wages, to the extent the same may be applicable. All work shall be performed in a workmanlike and quality fashion, free of encumbrances and liens, in full compliance with all applicable requirements of the Uniform Building Code and the Oxnard City Code. In addition to all other obligations of Developer as set forth in this Regulatory Agreement, Developer shall seek and obtain all necessary governmental approvals for the Project and shall pay all permit application fees and development exactions then prescribed by city ordinance or resolution at the time of submittal, unless such fees or exactions are waived by City. Nothing herein excuses compliance by Developer with any or all City ordinances, resolutions or procedures in connection with development of the Project.

7. Maintenance. Developer shall, at all times during the term of this Regulatory Agreement, cause the Property and the Project to be maintained in good condition and repair regardless of cause of the disrepair. Developer shall be fully and solely responsible for costs of maintenance, repair, addition and improvements. City and any of its employees, agents, contractors or

designees shall have the right to enter upon the Project at reasonable times and in reasonable manner to inspect the project.

8. Reports. Developer will provide City with reports and records as follows:

a. Developer understands and agrees that City may, at any time, request information that may be required for the purpose of making necessary reports to HUD and State Department of Housing and Community Development, or for otherwise evaluating Developer's progress and performance pursuant to this Regulatory Agreement. In the event of such requests, Developer shall comply by providing the appropriate data within 15 calendar days from the date of any such request.

b. Developer further understands and agrees that the records and additional information described in this paragraph are required to be retained on a continuing basis for a period of 5 years after this Regulatory Agreement has expired.

c. Developer further understands and agrees that its failure to comply with any and all reporting and data submission requirements of this paragraph 8 may be deemed by City to be evidence of cessation of operation under the Regulatory Agreement or conversion to an unapproved change in use, requiring recovery of loan funds pursuant to the Regulatory Agreement, provided, however, that a failure to comply with the reporting and data submission requirements shall not be deemed to be cessation of operation under the Regulatory Agreement or a conversion to an unapproved change unless Developer has failed to cure such failure to comply within 30 days after City gives Developer a "notice to cure", or if the failure cannot be cured within 30 days, fails to commence to cure within 30 days and thereafter diligently pursue such cure.

d. All financial transactions must be supported by complete and verifiable source documents. Records shall provide a clear audit trail.

The affordability requirements contained in this Regulatory Agreement constitute covenants, conditions and restrictions that run with the land. Subject to the provisions of paragraph 16 below, if Developer fails to perform any obligation under this Regulatory Agreement, and fails to cure the default within 30 days after City has notified Developer in writing of the default or if the default cannot be cured within 30 days, fails to commence to cure within 30 days and thereafter diligently pursue such cure, City shall have the right to enforce this Regulatory Agreement by any means permitted by law, including an action at law or in equity to compel Developer's performance of its obligations, and/or for damages.

9. Monitoring Fee. In accordance with the Loan Agreement, Developer shall pay to City an annual monitoring fee on January 1 of the year following issuance of the Notice of Completion and every January 1 thereafter during the term of this Regulatory Agreement in the amount of One Hundred Fifteen Dollar ($115) per each Assisted Unit.

10 Hold Harmless Indemnification.

a. Developer shall at all times defend, indemnify and save City and the City of Oxnard Housing Authority ("Housing Authority"), including their boards, council members, commissioners, agencies, departments, officers, employees, agents and volunteers, harmless against any and all claims, lawsuits, judgment, demands and liability against City, or the Housing Authority, all of their boards, council members, commissioners, agencies, departments, officers, employees, agents and volunteers, including those arising from injuries or death of persons and for damages to property, arising directly or indirectly out of the operations conducted or subsidized in whole or in part by City related to this Regulatory Agreement, save and except claims or litigation arising through the sole negligence or wrongdoing and/or sole willful misconduct of City or any other indemnitee. Developer is not obligated to indemnify City or others for claims based upon their use of information provided by Developer, provided the information itself is accurate. Developer shall at all times indemnify and hold harmless City, its officers and employees, from all loss, litigation, liability, damage, or expense, including, without limitation, potential tenant relocation costs arising under this Regulatory Agreement and/or any subcontract which Developer enters into relating to implementation of the Project.

b. Developer's obligation to defend shall arise when a claim, demand or action is made or filed, whether or not such claim, demand or action results in a determination of liability or damages as to which Borrower is obligated to indemnify and hold harmless.

11. Modifications. All modifications to this Regulatory Agreement must be in written form and approved by both parties. To the extent that any lender to, or equity investor in, the Project requires changes to this Regulatory Agreement, which changes do not materially affect the basic affordability, reporting, and enforcement provisions hereof, the City agrees to cooperate to effect such changes within a reasonable time.

12. Sale Of Property/Change Of Use. Developer agrees and declares that the Property and the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, operated, sold, and approved subject to all obligations set forth or incorporated in this Regulatory Agreement, all of which are for the purpose of enhancing and protecting the value and attractiveness of the Property and the Project. All of the obligations set forth or incorporated in this Regulatory Agreement shall constitute covenants which run with the land and shall be binding on Developer and its successors and assigns, and all parties having or acquiring any right, title or interest in, or to any part of the Property or Project. Developer further understands and agrees that the loan funds provided to Developer under this Regulatory Agreement are made on the condition that Developer and all subsequent owners, or other successors and assigns of the Property and/or Project lease and rent the Units in accordance with the terms and conditions stipulated in paragraph 5 of this Regulatory Agreement, for a term of 55 consecutive years commencing upon issuance of Notice of Completion for the Project. In the event that Developer or any of its successors and assigns violates any of these covenants, following reasonable notice

and opportunity to cure, the total amount of the Loan funds shall become immediately due and payable.

13. Authority To Bind. By entering into this Regulatory Agreement, Developer certifies it is qualified and licensed to conduct business in the State of California.

14. Notice. All notices given or required to be given to this Regulatory Agreement, shall be in writing and may be given by personal delivery or by mail. Notice sent by mail shall be addressed as follows:

TO CITY: City of Oxnard
Housing Director
435 South D Street
Oxnard, California 93030

TO DEVELOPER: Etting Road LLC
c/o Cabrillo Economic Development Corporation
702 County Square Drive, Suite 200
Ventura, CA 93003
Attn: Chief Executive Officer

With copy to:

Goldfarb & Lipman LLP
1300 Clay Street, 11th Floor
Oakland, CA 94612
Attn: Lynn Hutchins

and, when addressed in accordance with this paragraph, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices shall be deemed given at the time of actual delivery. Changes may be made in the name and addresses of persons to whom notices are to be given by giving notice in the manner prescribed in this paragraph.

15. Compliance With Law. Developer shall comply with all applicable laws and regulations in the implementation of this Regulatory Agreement.

16. Contractual Relationship. The contractual relationship between City and Developer is independent and under no circumstances shall Developer be considered an agent or partner of City.

17. Enforced Delay; Extension Of Times Of Performance. In addition to specific provisions of this Regulatory Agreement, performance by any of the parties hereunder shall not be deemed to be in default, and all performance and other dates specified in this Regulatory Agreement shall be extended, where delays or defaults are due to: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, casualties, acts of God, acts of the public enemy, epidemics,

quarantine restrictions, freight embargos, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, materials or tools, delays of any contractor, subcontractor or supplier, acts or omissions of another party, acts or failures to act of any public or governmental agency or entity (other than the acts or failures to act of City which shall not excuse performance by City), or any other causes beyond the control or without the fault of the party claiming an extension of time to perform. Notwithstanding anything to the contrary in this Regulatory Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause. Times of performance under this Regulatory Agreement may also be extended in writing by the mutual agreement of City's Housing Director and Developer.

18. Benefit Of Agreement. This Regulatory Agreement and every provision hereof is for the exclusive benefit of Developer and City and not for the benefit of any other party. There shall be no incidental or other beneficiaries of any of Developer's or City's obligations under this Regulatory Agreement.

19. Enforcement Of Agreement. If any terms, provisions, conditions or covenants in this Regulatory Agreement, or the application thereof to any party or circumstances, shall to any extent be held invalid or unenforceable, the remainder of this Regulatory Agreement, or the application of such terms, provisions, conditions or covenants to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Regulatory Agreement shall be valid and enforceable to the fullest extent permitted by law.

20. Governing Law. The terms of this Regulatory Agreement shall be interpreted according to the laws of the State of California.

21. Rights of Mortgage Holders. The provisions of these Covenants do not limit the right of the holder of any mortgage, deed of trust or other lien or encumbrance to exercise any of its remedies for the enforcement of any pledge or lien upon the Property, recorded prior in time to this Regulatory Agreement or to which this Regulatory Agreement has been subordinated in writing. In the event of any foreclosure under any such mortgage, deed of trust, or other lien or encumbrance, or a sale pursuant to any power of sale included in any such mortgage or deed of trust, the purchaser or purchasers and their successors and assigns and the Property shall not be subject to this Regulatory Agreement.

22. City Successors. City, its successors and assigns, is deemed the beneficiary of the covenants contained herein, without regard to technical classification and designation. The covenants shall run in favor of City, its successors and assigns, without regard to whether City has been, remains, or is an owner of any land or interest therein.

23. Modification. City and its successors and assigns, and Developer and its successors and assigns shall have the right to consent and agree to changes in, or to eliminate in whole or in part, any of the covenants or restrictions contained in these covenants without the consent of any

tenant, lessee, easement holder, licensee, mortgagee, trustee, beneficiary under a deed of trust or any other person or entity having any interest less than a fee in the Property: provided, however, that the obligations set forth in paragraph 21 shall not be subject to modification without the consent of any affected lienholder.

24. No Discrimination. There shall be no discrimination against or segregation of any person, or group of persons, on account of race, color, religion, national origin, sex, age, disability, marital status, sexual preference, creed, ancestry, familial status, medical condition, or retaliation for having filed a discrimination complaint, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property, nor shall Developer itself or any person claiming under or through it, establish or permit any such practice or practices or discrimination or segregation with reference to the selection, location, number use or occupancy of buyers, tenants, lessees, subtenants, sublessees, or vendees of the Property.

The Developer shall refrain from restricting the rental, sale or lease of the Property to any person on the basis of race, color, religion, ancestry, familial status, national origin, sex, age, disability, marital status, sexual preference, creed, ancestry, medical condition, or retaliation for having filed a discrimination complaint. All deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

> "The transferee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.0 of the Government Code, in the sale, lease sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or though him or her, establish or permit any practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublesses, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land."

25. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, all of which shall constitute one in the same instrument. Such counterparts shall be deemed have the same effect as if the signatures were in a single original document.

(Signatures appear on next page)

IN WITNESS WHEREOF, City and Developer have executed this Regulatory Agreement.

(NOTARIZATION REQUIRED)

CITY:

THE CITY OF OXNARD

Housing Director

DEVELOPER:

ETTING ROAD LLC, a California limited company

By: Cabrillo Economic Development Corporation, a California non-profit public benefit corporation, its sole member and manager

By: Victoria J Brady
Chief Executive Officer

APPROVED AS TO FORM:

Stephen Fischer
City Attorney

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)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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 Notary Public

(Place Notary Seal Above)

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)
) ss.
COUNTY OF _____)

On _____, before me, _____, Notary Public, personally appeared _____, 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 Notary Public

(Place Notary Seal Above)

EXHIBIT "A"

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

A PORTION OF PARCEL H, SUBDIVISION 72 RANCHO EL RIO DE SANTA CLARA O' LA COLONIA, IN THE CITY OF OXNARD, COUNTY OF VENTURA, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF VENTURA COUNTY, IN BOOK 3. MISCELLANEOUS RECORDS AT PAGE 14, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A 3/4 INCH IRON PIPE SET IN THE SOUTHERLY LINE OF PLEASANT VALLEY ROAD DISTANT THEREON NORTH 59° 15' 30" EAST 250.73 FEET FROM A 4" X 4" POST SET AT THE MOST WESTERLY CORNER OF SAID PARCEL H; THENCE FROM SAID POINT OF BEGINNING.

1ST: NORTH 59° 15' 30" EAST 424.64 FEET ALONG THE SOUTHERLY LINE OF SAID PLEASANT VALLEY ROAD TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1848; THENCE,

2ND: SOUTH 345.13 FEET TO A NAIL AND METAL TAG STAMPED SGB LS 1848 SET IN THE SOUTH SIDE OF A LARGE EUCALYPTUS TREE IN THE NORTH LINE OF ETTING ROAD; THENCE ALONG SAID NORTH
LINE.

3RD: WEST 365.00 FEET TO A 3/4 INCH IRON PIPE MARKED WITH A METAL TAG STAMPED SGB LS 1842; THENCE,

4TH: NORTH 128.2 FEET TO THE POINT OF BEGINNING.

EXCEPT THEREFROM ALL RIGHT, TITLE AND INTEREST OF THE GRANTOR IN AND TO ALL OIL, GAS, MINERALS, HYDROCARBONS AND ASSOCIATED SUBSTANCES IN, UNDER OR PRODUCED AND SAVED FROM SAID LAND, BUT WITHOUT THE RIGHT OF ENTRY TO THE SURFACE OF THE PROPERTY OR THE TOP FIVE HUNDRED (500) FEET OF THE SUBSURFACE THEREOF MEASURED VERTICALLY FROM THE SURFACE (COLLECTIVELY "MINERAL RIGHTS") AS RESERVED IN DEED RECORDED SEPTEMBER 10, 2015 AS INSTRUMENT NO. 2015-00136187, OFFICIAL RECORDS OF SAID COUNTY.

APN: 225-0-014-020

EXHIBIT E

DISBURSEMENT SCHEDULE

1. **Payment Requests.** Payment requests from Borrower may be submitted no more frequently than on a monthly basis. The Borrower shall also submit receipts and other documentation that describe the documents, materials, and activities that will be paid for and/or reimbursed with each specific payment request.

   Borrower may not request disbursement of funds until the funds are needed for payment of eligible costs (i.e., reimbursement of eligible construction costs). Borrower must provide evidence of compliance with insurance requirements satisfactory to the City before disbursement of any funds.

   Payment to Borrower shall be based on the submittal and approval of an invoice, and based on conformance with this Agreement.

2. **Billing.** Borrower shall submit an invoice and copies of all original supporting documentation to the Lender at the following address:

   CITY OF OXNARD
   Housing Department
   435 S D Street
   Oxnard, CA 93030
   Attention: Housing Director

3. **Final Disbursement.** Final 10% Disbursement to occur after issuance of Certificate of Occupancy of the Project. Borrower must provide evidence of compliance with insurance requirements satisfactory to the City before disbursement of any funds.

Eligible Loan Costs: Construction Costs

EXHIBIT F

INSURANCE REQUIREMENTS

Exhibit INS-E

INSURANCE REQUIREMENTS FOR CONSTRUCTION PROJECTS (WITH BUILDER'S RISK REQUIREMENT)

1. Contractor shall obtain and maintain during the performance of any services under this Contract the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of services hereunder by Contractor, its agents, representatives, employees or subcontractors.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $2,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project location or shall be twice the occurrence amount;

b. Business Automobile Liability Insurance in an amount not less than $1,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. If architectural, engineering, or electrical work will be performed under the Contract, Professional Liability/Errors and Omissions Insurance appropriate to the work being done in an amount not less than $1,000,000, with neither Contractor nor listed subcontractors having less than $500,000 individually. The Professional Liability/Errors and Omissions Insurance must be project specific with at least a one-year extended reporting period, or longer upon request.

d. Course of Construction Insurance providing coverage for "all risks" of loss in an amount not less than the completed value of the project, with City named as Owner and Insured.

e. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

1. Contractor shall, prior to performance of any services, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-E. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before work commences. City reserves the right to require complete certified copies of all required insurance

policies at any time. The certificates of insurance and endorsements shall be sent via email. If you have not received your request or are having difficulty with electronic upload, contact insurance@oxnard.org

2. Contractor agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

3. Contractor agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-E or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 and CG 2037).**

4. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance or self-insurance coverages **(this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

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

6. All insurance standards applicable to Contractor shall also be applicable to Contractor's subcontractors. Contractor agrees to maintain appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation**

provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.

Endorsement Forms

Original endorsements are required for general liability and automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the sample accord form.

INS-E.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [x] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $2,000,000 PRODUCTS COMP/OP AGG. $2,000,000 PERSONAL & ADV. INJURY $2,000,000 EACH OCCURRENCE $2,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $1,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY**				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Errors and omissions insurance or malpractice insurance available for the insured's profession; if architectural, engineering or electrical work will be performed under the Contract, Course of Construction Insurance				Minimum coverage $1,000,000 Each consultant/ & listed sub-consultant $500,000 Course of Construction Completed Value of Project

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ~~ENDEAVOR TO~~ MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, ~~BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.~~

AUTHORIZED REPRESENTATIVE

SAMPLE

EXHIBIT F

650\156\3896658.3

GENERAL LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits
☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ☐ Per Occurrence ☐ Per Claim (which)

APPLICABILITY This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made
☐ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
☐ OWNERS & CONTRACTORS PROTECTIVE ☐ Occurrence

OTHER PROVISIONS

COVERAGES	LIABILITY LIMITS IN THOUSANDS $ EACH OCCURRENCE	AGGREGATE
☐ GENERAL		
☐ PRODUCTS/COMPLETED OPERATIONS		
☐ PERSONAL & ADVERTISING INJURY		
☐ FIRE DAMAGE		
☐ _____		
☐ _____		

Underwriter=s representative for claims pursuant to this insurance.

CLAIMS:
Name: _____
Address: _____
Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   a. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE
☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: ( ) Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

NAMED INSURED

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits
☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____
with an Aggregate of $_____ applies to _____
coverage. ☐ Per Occurrence ☐ Per Claim (which)

APPLICABILITY. This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

☐ COMMERCIAL AUTO POLICY

☐ BUSINESS AUTO POLICY

☐ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____

Address:__

_____

Telephone: ( ) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.
2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.
3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.
4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.
5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.
6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD % Evident ID, Inc.
8520 Allison Pointe Blvd. Ste 223
PMB 5210
Indianapolis, Indiana 462500-4299 US

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____

(original signature required)

Telephone: ( ) Date Signed _____

Rev. 1/23 INS-E.doc

EXHIBIT F

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CITY COUNCIL AGENDA REPORT

PUBLIC HEARINGS
AGENDA ITEM NO. L.1

DATE: February 18, 2025

TO: City Council

FROM: Brenda Lopez, Interim Housing Director, (805) 385-8092, brenda.lopez@oxnard.org

SUBJECT: Fiscal Year 2020-2021 Annual Action Plan Amendment - Community Development Block Grant CARES Act. (10 minutes)

RECOMMENDATION

That the City Council:

1. Conduct a public hearing regarding the fiscal year 2020-2021 Annual Action Plan Amendment;

2. Approve the fiscal year 2020-2021 Annual Action Plan Amendment for the CARES Act reallocations;

3. Authorize the City Manager, and his designees, to incorporate the amended grant allocations into the 2020-2021 Annual Action Plan Amendment for the CARES Act, and allow adjustments within ten percent of the grant allocation or $200,000, whichever is greater;

4. Authorize the City Manager, and his designees, to execute the required documents to submit the 2020-2021 Annual Action Plan Amendment to the United States Department of Housing and Urban Development; and,

5. Authorize the City Manager, and his designees, to execute all of the agreements necessary for the implementation of the 2020-2021 Annual Action Plan Amendment.

(This is a Public Hearing, therefore this item did not originate in Committee.)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/mbATWRWzL4E

BACKGROUND

The City of Oxnard receives annual entitlement grant funding from the United States Department of Housing and Urban Development (HUD) for the Community Development Block Grant (CDBG), HOME Investment Partnerships Act (HOME) and Emergency Solutions Grant (ESG) programs. These grants contribute to improving the quality of life in Oxnard by supporting the expansion of affordable housing opportunities, providing services to low-income and homeless families, supporting economic growth and funding critical infrastructure projects.

Recipients of HUD entitlement grants were awarded supplemental funding under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) that was signed into law on March 27, 2020. Under the CARES Act, the City of Oxnard was awarded $3,088,367 in CDBG-Coronavirus (CDBG-CV) and $5,255,005 in ESG-Coronavirus (ESG-CV). These grants adhere to many of the regulations that are in place for both programs, but include a requirement to prevent, prepare and respond to the coronavirus.

On October 6, 2020, the City Council approved an amendment to the 2020-2021 Annual Action Plan accepting the

supplemental funding.

The ESG-CV grant was fully exhausted by September 30, 2023 and has been closed out. The CDBG-CV grant unallocated balance of $1,209,053.74. The grant funds must be expended by March 2, 2027.

DISCUSSION

On September 19, 2023, the City Council approved receipt of an Encampment Resolution Fund (ERF) grant from the State of California in the amount of $4,015,638.88 to respond to the continuing need at the homeless encampments located on McWane Boulevard and at Fifth Street, east of Harbor Boulevard.

City Council further approved using the ERF to support an agreement between the City and the County of Ventura totaling $1,163,614.34 for the delivery of outreach, case management and supportive services and $2,759,400 for interim shelter. To provide the interim shelter, staff was granted authority to negotiate and enter into agreements with hotel owners. The combined services offer a comprehensive solution to move individuals out of encampments and into interim housing with a goal of transitioning to permanent supportive housing units that are actively under construction in the City of Oxnard. All funding available within the State grant has been allocated and will be fully exhausted by April 30, 2025.

Housing Staff is requesting approval to amend the City's agreement with the County of Ventura and hotel operators to allow the additional time needed for the Casa de Carmen permanent supportive housing project to be completed. This action will avoid exiting individuals receiving supportive services back to unsheltered homelessness. If approved, the proposed amendments extend both agreements through August 31, 2025 requiring an additional allocation of $250,000 to the County of Ventura's agreement and $625,000 for interim shelter.

Staff recommends awarding $875,000 in CDBG-CV funding to support the proposed amendments referenced above. A subsequent Report Item on the February 18, 2025 Council agenda includes agreement amendments with the County of Ventura and hotel operators.

Staff is also requesting to increase the CDBG-CV administration budget by $88,258.13 to support the department's projected expenses through the life of the grant. To date, the department has spent $220,577.87 on administrative expenses. This budgetary increase will bring the total administration budget to $308,836.

If the proposed 2020-2021 Annual Action Plan Amendment is approved, $245,795.61 will remain available for future projects.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

There is no financial impact to the General Fund for adoption of this recommendation. The Housing Department has existing CDBG-CV appropriations necessary to fund the proposed agreements.

For Finance Use Only: CDBG-CV Fund (Org. 2018101-5xxxx, Project G2015).

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Andrea Palmer, Grants Manager

ATTACHMENTS

1. 2020-21 8TH AMENDMENT ANNUAL ACTION PLAN
2. 2020-21 CDBG CARES ACT BUDGET REALLOCATION AMENDMENT
3. PRESENTATION

City of Oxnard

2020 Annual Action Plan
CARES Act 8th Amendment

DRAFT

Prepared by:

City of Oxnard – Housing Department – Grants Management

435 South D Street, Oxnard, California, 93030

Expected Resources

AP-15 Expected Resources – 91.220(c)(1,2)

Introduction

ANNUAL ACTION PLAN CARES ACT AMENDMENT UPDATE-

The purpose of the City of Oxnard's amendment is to appropriate resources to new activities that align with the CARES Act mission of preventing, preparing and responding to the impacts related to COVID-19 to the Community Development Block Grant (CARES ACT) (CDBG-CV) of the first year 2020 Annual Action Plan in the 2020-2024 Ventura County Regional Consolidated Plan, per City of Oxnard Council Action on October 6, 2020. This is a substantial amendment, and the eighth amendment to this document. The purpose of this amendment is exclusively for the CDBG-CV funds as changes to specific projects have been identified in the AP-38 of this report. City of Oxnard City Council action is scheduled on February 18, 2025.

Housing and community development resources are currently available in Ventura Urban County and Entitlement Jurisdictions include:

- Community Development Block Grant (CDBG) funds
- HOME Investment Partnerships Program (HOME) funds
- Emergency Solutions Grant (ESG) funds
- General funds (tax levy)
- Housing Successor Funds (formerly low-moderate Redevelopment Agency Funds)
- HUD Section 108 Loan funds
- HUD Housing Choice Voucher Program (through the Area Housing Authority of Ventura County, Oxnard Housing Authority, Housing Authority of the City of San Buenaventura, Santa Paula Housing Authority, and the Housing Authority of the City of Port Hueneme)
- California Housing Finance Agency funds (CalHFA)
- State Housing and Community Development (HCD) housing funds
- State transportation funds
- Ventura County Housing Trust Fund
- CARES Act Community Development Block Grant (CDBG-CV) funds
- CARES Act Emergency Solutions Grant (ESG-CV) fund

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Anticipated Resources

Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan $	Narrative Description
			Annual Allocation: $	Program Income: $	Prior Year Resources: $	Total: $		
CDBG	public - federal	Acquisition Admin and Planning Economic Development Housing Public Improvements Public Services	2,573,996	100,000	352,000	3,025,996	10,406,067	Block grant from HUD to address housing, community development, and economic development needs.
HOME	public - federal	Acquisition Homebuyer assistance Homeowner rehab Multifamily rental new construction Multifamily rental rehab New construction for ownership TBRA	775,947	100,000	0	875,947	3,256,502	Grant from HUD to address affordable housing needs.

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Program	Source of Funds	Uses of Funds	Expected Amount Available Year 1				Expected Amount Available Remainder of ConPlan $	Narrative Description
			Annual Allocation: $	Program Income: $	Prior Year Resources: $	Total: $		
ESG	public - federal	Conversion and rehab for transitional housing Financial Assistance Overnight shelter Rapid re-housing (rental assistance) Rental Assistance Services Transitional housing	221,083	0	0	221,083	840,722	Grant from HUD to address needs and services for homeless persons or persons at risk of becoming homeless.
Other	public - federal	Other	8,343,372	0	0	8,343,372	0	$5,255,055 in ESG-CV and $3,088,367 in CDBG_CV received to funding to prevent, prepare for, and respond to the coronavirus pandemic among individuals and families

Table 1 - Expected Resources – Priority Table

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Explain how federal funds will leverage those additional resources (private, state and local funds), including a description of how matching requirements will be satisfied

The jurisdictions leverage federal resources against other sources of federal, state, local, and private funding to maximize the impact of CDBG, HOME, and ESG funds. Leveraging varies from activity to activity depending on the project scope. For instance, the Federal Low-Income Housing Tax Credit (LIHTC), historic tax credits, and various affordable housing loan and grant products from the CA Department of Housing and Community Development and the Federal Home Loan Bank can be leveraged with HOME funding to develop affordable housing.

Although the CDBG program does not require a match, the HOME program and the ESG program require funding match. The HOME program requires a 25 percent non-federal cash or non-cash match of the annual grant amount or entitlement, less 10 percent for administration and five percent for Community Housing Development Organization (CHDO) operating support.

An ESG match is required on a one-to-one basis (100 percent match). ESG grantees report required match detail to the Ventura County Continuum of Care (CoC) on a monthly or semi-annual basis. Matching contributions from ESG grantees (cash or non-cash) may be obtained from any source, including any federal source other than the ESG program, as well as state, local, and private sources, per 24 CFR 576.201.

ANNUAL ACTION PLAN CARES ACT AMENDMENT UPDATE - In the eighth amendment, CDBG-CV funding will leverage a state-funded activity, the Encampment Resolution Fund (ERF). The ERF program provides case management, backpack medicine, meals, encampment cleanups, relocation assistance and non-congregate shelter to the homeless that reside in encampments. The Homeless division who manages the ERF programs anticipates that the funding for this program will run out by April 30, 2025. CDBG-CV is being leveraged to continue the stabilization of the encampment residents as they wait to transition to permanent supportive housing opportunities that are actively under construction.

In program year 2020-21, $200,000 of CDBG-CV funding was provided for homeless encampment responses, with $150,000 of ESG-CV. In a mid-year reallocation in program year 2022-23 the homeless encampment programs increased from $200,000 to $500,000. And now the 2024-25 program year has a plan to use $875,000 for the homeless encampment program.

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If appropriate, describe publicly owned land or property located within the jurisdiction that may be used to address the needs identified in the plan

Most County-owned property is used to house County operations or is deed-restricted, limiting its feasibility for new uses. The County has been evaluating land it owns, as it becomes available, for the purpose of providing affordable housing and will continue to consider land that is deemed as surplus for the needs identified in the Regional Consolidated Plan. The County has initiated the use of a surplus building in San Buenaventura for a year-round emergency shelter for homeless persons. The building is currently being renovated and is expected to begin serving clients early in 2020. Additionally, late in 2019 the County released a Request for Qualifications and Concept Proposals for a County-owned property located in the unincorporated area for an affordable housing development, with a permanent supportive housing component.

Discussion

Anticipated CARES Act funding is included in "Other" section in table above, $3,088,367 in CDBG-CV funds to be used to prevent, prepare for and respond to the coronavirus and $5,255,055 in ESG-CV funding to prevent, prepare for, and respond to the coronavirus pandemic among individuals and families who are homeless or receiving homeless prevention activities to mitigate the impacts of COVID-19.

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Annual Goals and Objectives

AP-20 Annual Goals and Objectives

Goals Summary Information

Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
1	Improve Supply of Affordable Housing	2020	2024	Affordable Housing		New Rental Housing Housing Support and Stability Homeownership Opportunities Rehabilitation & Preservation of Existing Housing Assistance for Senior Residents Disaster Planning and Recovery	CDBG: $1,030,153 HOME: $788,353 CDBG-CV: $441,410.36	Public service activities other than Low/Moderate Income Housing Benefit: 104 Persons Assisted Rental units constructed: 5 Household Housing Unit Rental units rehabilitated: 8 Household Housing Unit Homeowner Housing Added: 6 Household Housing Unit Housing Code Enforcement/Foreclosed Property Care: 2000 Household Housing Unit
2	Enhance Economic Stability	2020	2024	Non-Housing Community Development		Increase Job Skills Facade Improvements Local Entrepreneurship	CDBG-CV: $300,000	Jobs created/retained: 20 Jobs Businesses assisted: 0 Businesses Assisted

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Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
3	Increase Social Services	2020	2024	Non-Homeless Special Needs		Housing Support and Stability Assistance for Senior Residents Social Services Youth Activities and Services Disaster Planning and Recovery	CDBG: $401,099 CDBG-CV: $750,683.96	Public service activities other than Low/Moderate Income Housing Benefit: 28300 Persons Assisted Public service activities for Low/Moderate Income Housing Benefit: 150 Households Assisted
4	Work to End Homelessness	2020	2024	Homeless		Housing Support and Stability Homelessness	ESG: $221,083 CDBG-CV: $1,287,436.68 ESG-CV: $4,732,505	Tenant-based rental assistance / Rapid Rehousing: 45 Households Assisted Homeless Person Overnight Shelter: 600 Persons Assisted Homelessness Prevention: 20 Persons Assisted Other: 300 Other

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Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
5	Create Quality Neighborhoods	2020	2024	Non-Housing Community Development		Housing Support and Stability Assistance for Senior Residents Streets and Streetscapes Parks and Community Space Disaster Planning and Recovery Utilities and Public Infrastructure	CDBG: $707,945 CDBG-CV: $0	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit: 125,000 Persons Assisted

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Sort Order	Goal Name	Start Year	End Year	Category	Geographic Area	Needs Addressed	Funding	Goal Outcome Indicator
6	Effective Administration	2020	2024	Planning and Administration		New Rental Housing Housing Support and Stability Homeownership Opportunities Rehabilitation & Preservation of Existing Housing Assistance for Senior Residents Increase Job Skills Facade Improvements Local Entrepreneurship Social Services Youth Activities and Services Homelessness Streets and Streetscapes Parks and Community Space Disaster Planning and Recovery Utilities and Public Infrastructure	CDBG: $534,799 HOME: $87,594 CDBG-CV: $308,836 ESG-CV: $522,500	Other: 0 Other

Table 2 – Goals Summary

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Goal Descriptions

1	**Goal Name**	Improve Supply of Affordable Housing
	Goal Description	Create and preserve stable, safe, and resilient affordable housing opportunities for homeowners and renters including special needs groups such as farmworkers, persons with disabilities, and the elderly throughout Ventura County. Provide housing support to households impacted by COVID-19. CDBG-CV funds will be used to prevent, prepare for and respond to coronavirus. AMENDMENT UPDATE: Reduced and reallocated CARES ACT CDBG- CV funding due to activity closed and added new activity.
2	**Goal Name**	Enhance Economic Stability
	Goal Description	Enhance economic stability and prosperity by increasing economic opportunities for residents through job skills training and promotion of local entrepreneurship. Provide economic development support to businesses impacted by COVID-19. CDBG-CV funds will be used to prevent, prepare for and respond to coronavirus. AMENDMENT UPDATE: Reduced and reallocated CARES ACT CDBG- CV funding due to activity closed and added funding to existing activity.
3	**Goal Name**	Increase Social Services
	Goal Description	Increase access to health and wellness services, youth activities, senior activities, and social service activities for residents. Public service activities supporting response to COVID-19. CDBG-CV funds will be used to prevent, prepare for and respond to coronavirus. AMENDMENT UPDATE: Increased and reallocated CARES ACT CDBG- CV funding due to activities closed and added funds to existing activity.

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4	**Goal Name**	Work to End Homelessness
	Goal Description	Work alongside the Ventura County Continuum of Care to end homelessness within Ventura County by providing housing, emergency shelter, and social services to homeless persons or those at risk of homelessness. Provide homeless service activities for persons experiencing homelessness impacted by COVID-19. ESG-CV funds will be used to prevent, prepare for and respond to coronavirus pandemic among individuals and families who are homeless or receiving homeless prevention activities to mitigate impacts of COVID-19. CDBG-CV funds will be used to prevent, prepare for and respond to coronavirus. AMENDMENT UPDATE: Reduced and reallocated CARES ACT CDBG- CV funding due to no activity.
5	**Goal Name**	Create Quality Neighborhoods
	Goal Description	Enhance access to quality, resilient, and livable neighborhoods by improving publicly owned facilities and infrastructure such as parks, streets, sidewalks, and community buildings, including improving accessibility to meet Americans with Disabilities Act (ADA) standards. AMENDMENT UPDATE: Increased and reallocated CARES ACT CDBG- CV funding due to added new activity.
6	**Goal Name**	Effective Administration
	Goal Description	Create and maintain effective housing and community development programs that address the priority needs listed within the Consolidated Plan, comply with all U.S. Housing and Urban Development (HUD) requirements, and achieve the goals and objectives set out by each Ventura County jurisdiction. Administrative tasks supporting activities to prevent, prepare for and respond to coronavirus. (CDBG-CV 20% cap of Allocation and ESG-CV 10% cap of Allocation). Subject to the CARES Act and emergency policy from HUD, including program regulations and waivers. AMENDMENT (5th): Reduced and reallocated CARES ACT CDBG- CV funding. Total includes unallocated funds of $620,671.

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Projects

AP-35 Projects – 91.220(d)

Introduction

***EIGHTH ANNUAL ACTION PLAN AMENDMENT UPDATE –

CDBG-CV funds as changes to specific projects have been identified in the AP-38 of this report;

-Project 13: CV-COVID RESPONSE reduced by $96,029 for a revised total of $2,779,531.

-Project 14: CV-ADMINISTRATION increased by $88,258.13 for a revised total of $308,836. Total CDBG-CV award allocation: $3,088,367.

These are 2020 Plan year Projects designed to accomplish the goals and objectives of the 2020 AAP. The 2020 Projects will organize Activities in IDIS under the Projects setup in this section of AAP. The Projects are New Rental Housing, Housing Support and Stability, Homeownership Opportunities, Rehabilitation and Preservation, Assistance for Senior Residents, Other Public Services, Youth Activities and Services, Homelessness, Parks and Community Space, Public Facilities and Improvements, Public Facilities-Fire Protection Equipment and Administration and Planning.

Additionally, three new projects will be used to track activities as a result of CARES Act Amendment, CV-COVID RESPONSE, CV-ADMINISTRATION AND ESG20-OXNARD.

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Projects

#	Project Name
1	NEW RENTAL HOUSING
2	HOUSING SUPPORT AND STABILITY
3	HOMEOWNERSHIP OPPORTUNITY
4	REHABILITATION AND PRESERVATION
5	ASSISTANCE FOR SENIOR RESIDENTS
6	OTHER PUBLIC SERVICES
7	YOUTH ACTIVITIES AND SERVICES
8	HOMELESS ASSISTANCE
9	PARKS AND COMMUNITY SPACE

#	Project Name
10	PUBLIC FACILITIES AND IMPROVEMENTS
11	PUBLIC FACILITIES-FIRE PROTECTION EQUIPMENT
12	ADMINISTRATION
13	CV-COVID RESPONSE
14	CV-ADMINISTRATION
15	ESG20-OXNARD

Table 3 - Project Information

Describe the reasons for allocation priorities and any obstacles to addressing underserved needs

The allocation priorities are based on the annual needs identified in coordination with other city departments. Public service allocations are determined by the participation from other providers to meet the goals of the ConPlan. HOME funds are balanced between development projects and single family housing needs. HESG allocations are targeted exclusively for the needs of the homeless population.

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AP-38 Project Summary

Project Summary Information

1	**Project Name**	NEW RENTAL HOUSING
	Target Area	NA
	Goals Supported	Improve Supply of Affordable Housing
	Needs Addressed	New Rental Housing
	Funding	HOME: $788,353
	Description	PARTICIPATION IN HOUSING DEVELOPMENT FUNDING ASSISTANCE
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	5 LOW INCOME HOUSEHOLDS
	Location Description	CITY OF OXNARD. CALIFORNIA
	Planned Activities	FINANCIAL ASSISTANCE TO A COMMUNITY HOUSING DEVELOPMENT ORGANIZATION FOR THE DEVELOPMENT OF 5 HOUSING UNITS FOR LOW INCOME HOUSEHOLDS IN OXNARD. THIS PROJECT INCLUDES 15% OF HOME ALLOCATION SET ASIDE FOR CHDO'S, OR $131,392.
2	**Project Name**	HOUSING SUPPORT AND STABILITY
	Target Area	NA
	Goals Supported	Improve Supply of Affordable Housing
	Needs Addressed	Housing Support and Stability
	Funding	CDBG: $200,000
	Description	HOUSING SERVICES
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	5 HOUSING UNIT, 8 HOUSEHOLDS (REHABILITATION), 6 HOUSING UNITS-HOUSING SERVICE; TOTAL OF 19 HOUSEHOLDS
	Location Description	VARIOUS LOCATIONS THROUGHOUT CITY OF OXNARD
	Planned Activities	HOUSING SERVICES FOR LOW - MODERATE INCOME HOUSING HOUSEHOLDS
	Project Name	HOMEOWNERSHIP OPPORTUNITY

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3	**Target Area**	NA
	Goals Supported	Improve Supply of Affordable Housing
	Needs Addressed	Homeownership Opportunities
	Funding	CDBG: $125,000
	Description	HOMEOWNERSHIP ASSISTANCE
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	6 HOUSEHOLDS ASSISTED
	Location Description	VARIOUS LOCATIONS THROUGHOUT CITY OF OXNARD
	Planned Activities	HOMEOWNERSHIP ASSISTANCE FOR LOW-MODERATE INCOME HOUSING HOUSEHOLDS
4	**Project Name**	REHABILITATION AND PRESERVATION
	Target Area	NA
	Goals Supported	Improve Supply of Affordable Housing
	Needs Addressed	Rehabilitation & Preservation of Existing Housing
	Funding	CDBG: $705,153
	Description	REHABILITATION OF HOUSING UNITS; CODE ENFORCEMENT AND COMPLIANCE
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	8 HOUSEHOLDS HOUSING UNITS 2,000 HOUSEHOLD HOUSING UNITS (CODE COMPLIANCE)
	Location Description	VARIOUS LOCATIONS THROUGHOUT CITY OF OXNARD
	Planned Activities	AFFORDABLE HOUSING RENTAL UNITS FOR LOW-MODERATE INCOME HOUSEHOLDS; SUPPORT THE CODE ENFORCEMENT ACTIVITIES OF THE CITY OF OXNARD DEVELOPMENT SERVICES TO IMPROVE QUALITY OF LIFE AND PROPERTY ISSUES
5	**Project Name**	ASSISTANCE FOR SENIOR RESIDENTS
	Target Area	NA
	Goals Supported	Increase Social Services
	Needs Addressed	Assistance for Senior Residents
	Funding	CDBG: $47,500

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	Description	PUBLIC SERVICES SUBJECT TO 15% CAP OF 2021 CDBG ALLOCATION AND PROGRAM INCOME. FUNDING FOR SENIOR SERVICES TO INCREASE THE QUALITY OF LIFE
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	300 PERSONS WILL BE ASSISTED WITH SENIOR SERVICES
	Location Description	CITY-WIDE
	Planned Activities	1) ASSISTING WITH DAILY NEEDS FOR SENIORS BY CAREGIVERS VOLUNTEERS ASSISTING THE ELDERLY, CITY OF OXNARD RECREATION AT 2) PALM VISTA SENIOR CENTER
6	**Project Name**	OTHER PUBLIC SERVICES
	Target Area	NA
	Goals Supported	Increase Social Services
	Needs Addressed	Social Services
	Funding	CDBG: $149,299
	Description	PUBLIC SERVICES SUBJECT TO 15% CAP OF 2021 CDBG ALLOCATION AND PROGRAM INCOME. FUNDING FOR SENIOR SERVICES TO INCREASE THE QUALITY OF LIFE
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	125 LOW-INCOME INDIVIDUALS WILL BE ASSISTED WITH SUBSIDIZED HEALTH CARE SERVICES, FAIR HOUSING SERVICES WILL ASSIST 150 FAMILIES, AND 150 HOMELESS INDIVIDUALS WILL BE ASSISTED WITH EMERGENCY SHELTER AND SERVICES.
	Location Description	VARIOUS LOCATIONS THROUGHOUT CITY OF OXNARD

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	Planned Activities	***ACTION PLAN UPDATE - The City initially awarded $20,000 to Thrive Mentorship House where addiction and rehabilitation services for adult men were made available. This activity's funds have been reallocated to a park project. Thrive Mentorship House was unable to complete the initial documentation prior to developing a Subrecipient Agreement, therefore the project was closed. Additionally, the Fair Housing Program has been moved from Public Services to Administration, as the City of Oxnard serves all income levels with this program. 1) CITY OF OXNARD FAIR HOUSING PROGRAM, 2) EMERGENCY SHELTER FOR HOMELESS BY COUNTY OF VENTURA HUMAN SERVICES AGENCY RAIN PROGRAM, 3) HOMELESS SERVICES BY SHELTER CARE RESOURCES, 4) SUBSIDIZED HEALTH CARE SERVICES BY LIVINGSTON MEMORIAL VISITING NURSES ASSOCIATION
7	**Project Name**	YOUTH ACTIVITIES AND SERVICES
	Target Area	NA
	Goals Supported	Increase Social Services
	Needs Addressed	Youth Activities and Services
	Funding	CDBG: $204,300
	Description	PUBLIC SERVICES SUBJECT TO 15% CAP OF 2021 CDBG ALLOCATION AND PROGRAM INCOME. FUNDING FOR YOUTH RECREATIONAL AND EDUCATIONAL PROGRAMS; YOUTH FROM LOW- AND MODERATE- INCOME HOUSEHOLDS.
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	1700 YOUTH WILL BE ASSISTED WITH YOUTH SERVICES/RECREATIONAL AND EDUCATIONAL PROGRAMS IN LOW-MOD NEIGHBORHOODS
	Location Description	VARIOUS LOCATIONS THROUGHOUT CITY OF OXNARD
	Planned Activities	CITY OF OXNARD RECREATION AT 1) COLONIA GYM, 2) COLONIA BOXING GYM, 3) COLONIA RECREATION CENTER, 4) POLICE ACTIVITIES LEAGUE, 5) RECREATION ON THE GO AND 6) COLONIA LIBRARY EDUCATIONAL PROGRAM
8	**Project Name**	HOMELESS ASSISTANCE
	Target Area	NA
	Goals Supported	Work to End Homelessness
	Needs Addressed	Homelessness

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	Funding	ESG: $221,083
	Description	MERGED EXPECTED RESOURCES, PROJECT FUNDING AND NARRATIVES WITH PROJECT ESG20-OXNARD. THIS PROJECT IS NOT AVAILABLE FOR ACTIVITIES.
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	KINGDOM CENTER WILL PROVIDE EMERGENCY SHELTER TO 140 INDIVIDUALS; TURNING POINT WILL PROVIDE EMERGENCY SHELTER TO 15 MENTALLY-ILL PERSONS; CITY OF OXNARD HOUSING DEPARTMENT, HOMELESS DIVISION WILL PROVIDE STREET OUTREACH TO 100 INDIVIDUALS; RAPID RE-HOUSING TO 15 HOMELESS HOUSEHOLDS and HOMELESS PREVENTION ASSISTANCE TO 20 HOMELESS PERSONS
	Location Description	VARIOUS LOCATIONS THROUGHOUT CITY OF OXNARD
	Planned Activities	1) ADMINISTRATION OF HESG BY CITY OF OXNARD, 2) KINGDOM CENTER WILL PROVIDE EMERGENCY SHELTER AND, 3) EMERGENCY SHELTER FOR MENTALLY ILL BY TURNING POINT FOUNDATION, 4) CITY OF OXNARD HOUSING DEPARTMENT, HOMELESS DIVISION WILL PROVIDE STREET OUTREACH, 4) RAPID RE-HOUSING, AND 5) HOMELESS PREVENTION
9	**Project Name**	PARKS AND COMMUNITY SPACE
	Target Area	NA
	Goals Supported	Create Quality Neighborhoods
	Needs Addressed	Parks and Community Space
	Funding	CDBG: $118,000
	Description	PUBLIC IMPROVEMENTS OF PUBLIC PARKS AND COMMUNITY SPACE WITHIN LOW- AND MODERATE-INCOME AREAS
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	THIS PROJECT WILL ACCOUNT FOR TANGIBLE IMPROVEMENTS TO PUBLIC IMPROVEMENTS IN LOW-MOD CENSUS TRACT NEIGHBORHOODS. THE ACTIVITIES WILL TARGET LOW-MOD CENSUS TRACT NEIGHBORHOODS, ESTIMATED AT 60,000 PERSONS.
	Location Description	LOW- AND MODERATE-INCOME AREAS
	Planned Activities	1) PLEASANT VALLEY PARK BALL COURT AND 2) LA COLONIA GREEN ALLEYS
10	**Project Name**	PUBLIC FACILITIES AND IMPROVEMENTS
	Target Area	NA
	Goals Supported	Create Quality Neighborhoods

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	Needs Addressed	Utilities and Public Infrastructure
	Funding	CDBG: $746,945
	Description	PUBLIC FACILITIES AND IMPROVEMENTS
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	THIS PROJECT IS CITY-WIDE AND WILL ACCOUNT FOR IMPROVEMENTS TO CITY FACILITIES. THE CITY-WIDE ACTIVITIES WILL ASSIST APPROX 209,000 PERSONS, OF WHICH OVER 60% ARE LOW/MOD INCOME RESIDENTS, ESTIMATED AT 125,000 PERSONS
	Location Description	CITY-WIDE
	Planned Activities	1) HOMELESS SHELTER PORTABLE FACILITIES, 2) MULTI SERVICE CENTER REHABILITATION, 3) ONE STOP FACILITY AND 4) POLICE ACTIVITY LEAGUE (PAL) REHABILITATION 5) HOMELESS SHELTER IMPROVEMENTS AT 1450 SOUTH ROSE AVE
11	**Project Name**	PUBLIC FACILITIES-FIRE PROTECTION EQUIPMENT
	Target Area	NA
	Goals Supported	Create Quality Neighborhoods
	Needs Addressed	Disaster Planning and Recovery Utilities and Public Infrastructure
	Funding	CDBG: $195,000
	Description	PUBLIC FACILITIES -FIRE PROTECTION EQUIPMENT
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	THIS PROJECT IS CITY-WIDE AND WILL ACCOUNT FOR IMPROVEMENTS TO PUBLIC FACILITIES-FIRE PROTECTION EQUIPMENT. THE CITY-WIDE ACTIVITIES WILL ASSIST APPROX 209,000 PERSONS, OF WHICH OVER 60% ARE LOW/MOD INCOME RESIDENTS, ESTIMATED AT 125,000 PERSONS.
	Location Description	CITYWIDE
	Planned Activities	1) EMERGENCY OPERATIONS CENTER
12	**Project Name**	ADMINISTRATION
	Target Area	NA
	Goals Supported	Effective Administration

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	Needs Addressed	New Rental Housing Housing Support and Stability Homeownership Opportunities Rehabilitation & Preservation of Existing Housing Assistance for Senior Residents Increase Job Skills Facade Improvements Local Entrepreneurship Social Services Youth Activities and Services Homelessness Streets and Streetscapes Parks and Community Space Disaster Planning and Recovery Utilities and Public Infrastructure
	Funding	CDBG: $534,799 HOME: $87,594
	Description	ADMINISTRATION AND PLANNING COSTS SUBJECT TO CAPS FOR EACH FUNDING SOURCE; CDBG (20% of Allocation & PI) AND HOME (10% of Allocation & PI)
	Target Date	6/30/2021
	Estimate the number and type of families that will benefit from the proposed activities	ADMINISTRATION AND PLANNING ACTIVITIES WILL BENEFIT FAMILIES CITYWIDE. AN ESTIMATED 209,000 PERSONS WILL BENEFIT FROM THIS ACTIVITY OF WHICH OVER 60% ARE LOW- AND MODERATE- INCOME RESIDENTS.
	Location Description	CITYWIDE
	Planned Activities	COORDINATION OF ALL CDBG AND HOME ADMINISTRATION AND PLANNING ACTIVITIES
13	**Project Name**	CV-COVID RESPONSE
	Target Area	NA
	Goals Supported	Enhance Economic Stability Increase Social Services Work to End Homelessness
	Needs Addressed	Housing Support and Stability Increase Job Skills Facade Improvements Local Entrepreneurship Social Services Youth Activities and Services Homelessness

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	Funding	CDBG-CV: $2,779,531
	Description	CDBG activities to prevent, prepare for and respond to coronavirus. Subject to the CARES Act and emergency policy from HUD, including program regulations and waivers. The CV-COVID RESPONSE activities total $2,470,694. AMENDMENT (5th): Reallocated and increased funds for CDBG-CV projects for COVID response existing and new activities. Total includes unallocated funds of $620,671. AMENDMENT (7th): Reallocate CDBG-CV funds of $300,000 to new activity will provide rental assistance to assist with preventing homelessness (United Way of Ventura County). ***AMENDMENT (8th) Update: The City will reallocate CDBG-CV funds of $875,000 for activities to provide encampment response and non-congregate shelter services by Oxnard Housing Department-Homeless Services Division who will partner with agencies for the purpose of providing services to the unsheltered homeless.
	Target Date	6/30/2022
	Estimate the number and type of families that will benefit from the proposed activities	An estimated 21,000 persons will benefit from the Fire Paramedicine activity for low- and moderate-income residents. 21,000 persons will be assisted with Food Share activity; 14,000 persons will be assisted with Health Sanitation activity; 250 homeless individuals will be assisted with emergency shelter and services; 150 youth will be assisted with youth services and educational programs; 10 persons will be assisted by job development and training; rental assistance program will assist 500; and technical assistance activity will assist 20 businesses. These activities are in low-moderate income neighborhoods. AMENDMENT (5th): Estimated 20 persons assist with job retention/creation; housing prevention services to assist 150 persons; 100 encampment response individuals will be assisted; Post-PAL Shelter rehabilitation for 1 public facility-11,500 low/mod persons in area. AMENDMENT (7th): Estimate to assist 40 persons with rental assistance. ***AMENDMENT (8th) UPDATE: Oxnard CDBG-CV will assist 38 encampment response individuals.
	Location Description	Citywide and Low- and Moderate-Income Areas.

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	Planned Activities	City of Oxnard Fire Department will provide 1) Fire Paramedicine & PPE; City of Oxnard Cultural & Community Services will provide 2) Food Share, 3) Health-Sanitation Program, 4) Homeless Shelter Expansion, 5) Homework Center at Colonia Gym, South Oxnard Center, Durley Park Youth Center; City of Oxnard Housing Department will provide 6) Homeless Outreach, 7) Homeless Encampment Response, 8) Vocational Job Development & Training, 9) Business Improvement-South Oxnard; City of Oxnard Housing Authority will provide 10) Rental Assistance Program; and Community of Action of Ventura County will provide 11) Oxnard Homeless Services; 12) Business Assistance Program. AMENDMENT (5th): The following activities were cancelled due to not carrying out the program during COVID-19: City of Oxnard: 4) Homeless Shelter Expansion, 8) Vocational Job Development & Training, 9) Business Improvement-South Oxnard, and Community of Action of Ventura County: 11) Oxnard Homeless Services. The following activities closed and fund balance were reallocated: City of Oxnard Fire Department will provide 1) Fire Paramedicine & PPE; City of Oxnard Cultural & Community Services will provide 2) Food Share, 3) Health-Sanitation Program, 5) Homework Center at Colonia Gym, South Oxnard Center, Durley Park Youth Center. The City of Oxnard Housing Authority will provide 10) Rental Assistance Program will be closed with reduced funds. The following activities needs increased during COVID-19 therefore increased funding: City of Oxnard Housing Department and Ventura County Health Care Agency: 7) Homeless Encampment Response; Economic Development Collaborative of Ventura County: 12) Business Assistance Program. The following are new activities due to COVID-19 are Oxnard Housing Authority 13) Prevention Services and City of Oxnard 14) PAL Rehabilitation. Total includes unallocated funds of $620,671 AMENDMENT (7th) Provide rental assistance to assist with preventing homelessness by United Way of Ventura County. ***AMENDMENT (8th) UPDATE-OXNARD CDBG-CV funds will provide homeless services and shelter by Oxnard Housing Department-Homeless Services Division.
14	**Project Name**	CV-ADMINISTRATION
	Target Area	NA
	Goals Supported	Effective Administration

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	Needs Addressed	Housing Support and Stability Increase Job Skills Facade Improvements Local Entrepreneurship Social Services Youth Activities and Services Homelessness
	Funding	CDBG-CV: $308,836 (***AMENDMENT (8th) UPDATE)
	Description	Administrative tasks supporting activities to prevent, prepare for and respond to coronavirus. (20% cap of Allocation) Subject to the CARES Act and emergency policy from HUD, including program regulations and waivers. The CV-ADMINISTRATION Project total is $617,673. AMENDMENT (5th): Reduce CDBG-CV Administration project and reallocated to CDBG-CV projects. ***AMENDMENT (8th) UPDATE-OXNARD CDBG-CV: To date, expenditures total $220,577.87, amendment will increase budget by an additional $88,258.13 for a total of $308,836.
	Target Date	6/30/2022
	Estimate the number and type of families that will benefit from the proposed activities	Administration and planning activities will benefit families citywide. An estimated 209,000 persons will benefit from this activity of which over 60% are low- and moderate- income residents.
	Location Description	Citywide.
	Planned Activities	Coordination of all CDBG-CV Administration and planning activities. AMENDMENT (5th): Continue Administering the CDBG-CV funds. ***AMENDMENT (8th) UPDATE-OXNARD CDBG-CV funds will continue supporting the City of Oxnard's administrative operations.
15	**Project Name**	ESG20-OXNARD
	Target Area	NA
	Goals Supported	Work to End Homelessness
	Needs Addressed	Homelessness
	Funding	ESG: $221,083 ESG-CV: $5,255,005

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	Description	***AMENDMENT 6TH - Mercy House will utilize $233,022 for emergency shelter services provided prior to 9/30/2023; Ventura County Health Care Agency will utilize $291,000 for emergency shelter services provided prior to 9/30/2023, and the City of Oxnard will utilize the balance of the ESG-CV funds serving one household placing them in non-congregate shelter in the amount of $859.24. These activities are expected to zero out the ESG-CV fund balance. ***AMENDMENT (4th) Updated activities 4) Turning Point Foundation will provide Emergency Shelter, 5) Mercy House will provide Rapid Re-Housing. Both activities are regular ESG funds. ***AMENDMENT(3rd) Updated activities Oxnard ESG-CV funds will provide 1) Homeless Expansion Shelter (Mercy House Emergency Shelter) at K Street (2) Temporary Homeless Shelter at PAL (Mercy House Emergency Shelter), Emergency Shelter Maintenance (at K Street and PAL) 3) Temporary Emergency Shelter at 2nd Street (terminated), and Emergency Shelter (Turning Point Foundation), and Emergency Shelter Services (Ventura County Healthcare Services) 4) Case Management & Rapid Re-Housing, 5) Homeless Encampment Response-Outreach, 6) Street Outreach (Ventura County Health Care Services Agency and the Salvation Army) and 7) Tenant-Based Rental Assistance (United Way-Forward Home) and 8) Administration of ESG-CV***Annual Action Plan Amendment Update (2nd) - The City reallocated ESG-CV funds to activities that needed additional funding within the calendar year. ESG-CV Administration was reduced to $51,090, and Emergency Shelter was increased to $4,083,495 - dedicated to Mercy House Shelter Services and Operations, Turning Point Foundation, and Ventura County Health Care Services Agency. Street Outreach was reduced by $136,516 with those funds moving to Emergency Shelter Services. The original Annual Action Plan had an unallocated amount of $651,589, that is now moving to Emergency Shelter Services. HESG ANNUAL $221,083 - Administration and Planning costs subject to 7.5% Cap, or $16,581. HEARTH Emergency Solutions Grant funds to provide financial assistance to various service providers for Emergency Shelter and Street Outreach subject to 60% Cap; Homeless Prevention, Rapid Re-Housing, and HMIS activities to serve homeless individuals and families, and those at-risk of becoming homeless. Street Outreach and Emergency Shelter activities will be limited to 60% of HESG allocation, or $132,649. All HESG subrecipients are required by CITY OF OXNARD to provide matching funds of a dollar for every dollar HESG grant dollar received. (First AAP Amendment) ESG-CV ANTICIPATED RESOURCES ALLOW $5,476,088 OF ESG-CV ACTIVITIES TO PREVENT, PREPARE FOR AND RESPOND TO CORONAVIRUS.
	Target Date	6/30/2022

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	Estimate the number and type of families that will benefit from the proposed activities	HESG PY 2020 Annual grant will assist Kingdom Center with Emergency Shelter activity funds for 140 individuals; assist Turning Point with Emergency Shelter funds for 15 mentally ill persons; City of Oxnard Housing Department, Homeless Division with funds to contract for a provider to assist with Street Outreach to 100 individuals; Rapid Re-Housing to 15 Homeless households and Homeless Prevention assistance to 20 homeless persons. With the CARES Act, ESG-CV funds - Homeless activities planned are Emergency Shelter to 350 homeless persons; Rapid Re-Housing to 30 individuals; Street Outreach to 200 individuals. ***AMENDMENT ESG-CV - an additional 95 individuals have been identified for services within the last fiscal year of the ESG-CV period to add to the final total number served.
	Location Description	Various locations throughout the City of Oxnard.
	Planned Activities	PY 2020 HESG Annual activities will be; 1) Administration of HESG activities, 2) Kingdom Center will provide Emergency Shelter for families, 3) Emergency Shelter for mentally ill by Turning Point Foundation, 4) City of Oxnard Housing Department, Homeless Division, will provide Street Outreach, 4) Rapid Re-Housing, and 5) Homeless Prevention. Oxnard ESG-CV funds will provide 1) Homeless Expansion Shelter, 2) Temporary Homeless Shelter at K Street, 3) Temporary Emergency Shelter at 2nd Street, 4) Case Management & Rapid Re-Housing, 5) Homeless Encampment Response-Outreach, 6) Street Outreach and 7) Administration of ESG-CV. ***AMENDMENT - Mercy House assisted a total of 50 individuals with emergency shelter services through ESG-CV funding during the pandemic period. The Ventura County Health Care Agency assisted an extra 44 individuals with non-congregate shelter services with the proposed $291,000 provided through ESG-CV. The City served 1 individual through non-congregate shelter services with the balance of the ESG-CV funding. A total of 95 additional individuals have been served with the final balance of the ESG-CV funding, therefore the proposed overnight shelter number increased from 505 to 600.

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AP-50 Geographic Distribution – 91.220(f)

Description of the geographic areas of the entitlement (including areas of low-income and minority concentration) where assistance will be directed

The primary national objectives of the ConPlan programs are to benefit LMI residents, therefore, the City's CDBG funds will be targeted to extremely low, low, and moderate-income persons. The City has traditionally dedicated 100 percent of its CDBG resources to activities that exclusively benefit LMI persons. CDBG funds will be used to serve the LMI persons Citywide and in Low-Moderate Areas (LMA). This trend is expected to continue in PY 2020. Also, the City will continue to assist the low-income persons citywide with HOME and HESG funds. The target areas are: (1) Citywide, with 89 percent of the total entitlement funds; and, (2) the LMA Census Tract, 11 percent. The total entitlement includes the administration and planning funding.

Geographic Distribution

Target Area	Percentage of Funds
NA	NA

Table 4 - Geographic Distribution

Rationale for the priorities for allocating investments geographically

The need for affordable housing (funded from CDBG and HOME) is present throughout the City. CDBG funds for direct benefit category-capital improvements and code enforcement are allocated based on the percentage of LMI persons within the LMA neighborhoods. Regarding the Public Services category of the CDBG funds, the proposed projects will focus on the basic needs of the residents such as health care, essential and supportive services, as well as housing services. The special population such as seniors, homeless and youth will continue to receive their funding for the healthcare needs, nutrition needs, education needs, shelter support and recreational needs.

HESG allocations are based on the limited clientele requirements and funds are distributed citywide. HOME funds are distributed based on the income eligibility of the clients and citywide basis. These allocations also cover designated areas targeted by Code Compliance efforts to reduce and eliminate the deterioration of the areas through the Homeownership program as well as the Housing Rehabilitation program: homeowners will improve the beautiful appearance of the home and the safety of the neighborhood.

Discussion

As always, the City of Oxnard will continue to look for available public and private resources and creative ways to fund the needy programs.

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Affordable Housing

AP-55 Affordable Housing – 91.220(g)

Introduction

HOME affordable housing loans for down payment assistance or rehabilitation will leverage affordable housing loan programs, funded by the State of CA, such as BEGIN and CAL-HOME. HOME development financing assistance will leverage development funds from the State of California, developer equity, private financing, and tax credit financing.

Lower-income households continue to pay a high percentage of their income for housing, compared to other income groups. A large percentage of lower-income renters tend to experience overcrowding and inadequate housing conditions as housing problems. In order to help provide decent and affordable housing, and improve the social and economic status for LMI households in Oxnard, the following programs will be available during the next program year:

1. First time Homebuyer Loan Program

2. Homeownership Assistance Program

3. Rehabilitation of Single-Family and Mobile Home Housing Units

4. Rehabilitation of Housing Rental Units

5. Construction of new affordable dwelling units

6. Preservation of 520 public housing rental units and 1,840 Section 8 vouchers (including 15 set aside vouchers for homeless persons and 67 VASH vouchers for veterans)

One Year Goals for the Number of Households to be Supported	
Homeless	50
Non-Homeless	2,360
Special-Needs	250
Total	2,660

Table 6 - One Year Goals for Affordable Housing by Support Requirement

One Year Goals for the Number of Households Supported Through	
Rental Assistance	2,145

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One Year Goals for the Number of Households Supported Through	
The Production of New Units	5
Rehab of Existing Units	6
Acquisition of Existing Units	10
Total	2,166

Table 7 - One Year Goals for Affordable Housing by Support Type

Discussion

City of Oxnard's Affordable Housing Division (AHRD) offers HOME grant funds to finance homebuyer assistance and rehabilitation of owner-occupied single family housing for local residents. AHRD will also continue to provide financial assistance to Community Housing Development Organizations (CHDO) to develop affordable housing units throughout the City subject to available funding and as permitted by the funding source. Loan information is provided to interested residents at homeownership fairs, workshops, and on the City of Oxnard's Housing Department website.

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AP-60 Public Housing – 91.220(h)

Introduction

Oxnard Housing Authority (OHA) currently administers 520 public housing units, 1,840 Section 8 rental assistance vouchers, which includes 67 VASH vouchers and provides support services through its Resident Services program and Family Self-Sufficiency (FSS) program. The needs of public housing residents are supported with a Resident Services program which offers a variety of services to families and youth on-site. The FSS program supports and promotes public housing and Section 8 families with homeownership opportunities and economic self-sufficiency. The FSS Program provides one-on-one counseling and individual assistance to families that participate in this program. Marking flyers for the residential rehabilitation program and the home buyer program are also available in the City's Housing Department lobby.

Actions planned during the next year to address the needs to public housing

Modernization projects for the public housing units, where most needed, are funded through its Capital Fund program. Every 5 years the Capital Fund program conducts a PNA (Physical Need Assessment) throughout the entire housing units and sends out survey questionnaires to the residents to assess the physical deficiencies in their units. It also collects input from Maintenance and Public Housing Staff. All the collected deficiencies get translated into capital improvement projects and get tabulated into a 5-year action plan. Each year, in its Annual Plan and Statement, Capital Fund re-prioritizes those projects identified in the 5 year plan.

For Fiscal year 2020/21, the following capital improvement projects for public housing units are planned:

Cal 31-2 (Felicia Court) Roofing	$250,000
Exterior Doors	$220,000
Cal 31-8 (Palm Vista) Boiler Replacement	$10,000
Cal 31-5 (Plaza Vista) Kitchen Cabinets	$175,000
Cal 31-7 (Scattered sites) Kitchen Cabinets	$350,000
Building Improvements	$10,000
Total Planned projects for 2020	$1,015,000

In 2019, the Oxnard Housing Authority retired 144 public housing units, the impacted public housing residents were issued Section 8 Project Based Vouchers for the Las Cortes Project and any remaining families were given Section 8 tenant-based vouchers to relocate to a unit in the private market.

Actions to encourage public housing residents to become more involved in management and

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participate in homeownership

Homeownership opportunities are promoted by offering public housing families homeownership counseling services by Ventura County Community Development Corporation (VCCDC). In addition, families are informed of these services through its Family Self-Sufficiency Program and distribution of fliers to all households.

Public housing residents are encouraged to participate in public housing tenant associations that advocate on behalf of tenants to support efforts to improve public housing stock and living conditions.

If the PHA is designated as troubled, describe the manner in which financial assistance will be provided or other assistance

Not Applicable

Discussion

In order to respond to the increasing need for affordable housing units within the community, OHA and the Housing Department will continue to seek new resources of financing new housing development projects and partnering with developers, owners, and CHDO's.

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AP-65 Homeless and Other Special Needs Activities – 91.220(i)

Introduction

Jurisdictions that receive federal funds for homeless assistance are required to conduct a Point In Time Count (PIT) of homeless persons each year. The 2020 PIT count was conducted on January 29, 2020.

The "Ventura County 2020 Homeless Count and Subpopulation Survey: Final Report", published in April 2020. The report is at the following website:

https://s33020.pcdn.co/wp-content/uploads/2020/04/2020-VC-Homeless-Count-Report-Final.pdf

In summary, the PIT count is a snapshot of homeless people who could be enumerated on one specific day. The 2020 PIT counted a total of 379 unsheltered homeless persons in Oxnard.

Describe the jurisdictions one-year goals and actions for reducing and ending homelessness including reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

In the previous twelve months the City of Oxnard established a year around homeless shelter and navigation center located on K Street in Oxnard. The City of Oxnard contracted Mercy House to operate the navigation center. The navigation center will continue its operation for the next twelve-month period and beyond. Oxnard has launched an effort to develop a new construction mixed-use development that will include a new and replacement navigation center and 110-bed homeless shelter plus other support services and fifty-four units of permanent supportive housing. We expect that this new project will be in operation within thirty-six months and will maintain the interim operation on K Street until relocation is possible.

During the next year, Oxnard will engage a new street outreach team to offer navigation for basic needs, services and shelter. The street outreach team will coordinate with Mercy House and the Oxnard Navigation Center as well as the Homeless Liaison Officers with the Oxnard Police Department.

Addressing the emergency shelter and transitional housing needs of homeless persons

The emergency shelter and transitional housing needs of homeless persons are currently being addressed by several service providers throughout Ventura County. The emergency shelter needs in the area are met by the following providers: Mercy Housing in operation of the Oxnard Navigation Center, Ventura County Rescue Mission - single men over the age of 18 with rotating stay schedule, 10 nights in/5 nights out; Kingdom Center - emergency shelter for single women and women with children; Lighthouse Mission for Women and Children - single women and women with children; and Turning Point Foundation - mentally ill individuals.

Transitional housing needs are currently being met by the following providers: Kingdom Center - single women and women with children; Khepera House - single men; Many Mansions - transition aged youth, single women and women with children; Turning Point Foundation - single mentally ill persons; Salvation

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Army - families, single parents and single persons; VC-HSA - families, single parents and children, and single persons; Project Understanding - families and single parent households.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

There are many providers that are working diligently to assist homeless persons from not only finding housing, but also to prevent further incidents of homelessness. The Oxnard Housing Authority has created a homeless preference in issuance of Housing Choice Vouchers and is actively offering permanent housing opportunities. During the 2019 – 2020 fiscal year the Oxnard Housing Authority expects to house fifty otherwise homeless families with the use of Housing Choice Vouchers.

The Ventura County Human Services Agency utilizes both County General Funds and the City's Emergency Solutions Grant to provide eviction prevention and rapid re-housing services to all of these populations; they will continue to do this in the forthcoming operating year. Additionally, Ventura County Veterans Services, Homeless Health Care and Ventura County Behavioral Health all work closely with the service providers to provide other supportive services to assist in reducing the incidence of homelessness as they have also done in the recent past.

OHA works in conjunction with the Veteran Administration to administer 67 housing vouchers for homeless veterans under the VASH program. This program targets chronically homeless veterans.

Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); or, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs.

The CoC has documented discharge policies of all of the above mentioned services that spell out various directions to ensure persons are not discharged into homelessness. Additionally, as stated earlier, HSA works with qualifying low-income persons and families to avoid homelessness. This is done with the utilization of HESG and Ventura County allocated general fund dollars. Under the CoC discharge policy, in

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fulfilling the State Mandated Policy (state law related to the discharge protocol), the following are found:

1. Health Care Facilities: the County health care system describes the discharge policy as interdisciplinary responsibility. For the persons who require ongoing medical and nursing care and who have no identifiable address they may be discharged to a respite program at the RAIN project, a County operated transitional housing project. Others, upon discharge routinely go to group homes, board and care facilities, or reunite with families and friends.
2. Mental Health Facilities: The Ventura County Medical Center Psychiatric Inpatient Unit with the collaboration of Ventura County Behavioral Health and various community agencies provide discharge planning and placement assistance to patients, when leaving the mental health facilities.
3. Foster care and other youth facilities: the goal is to provide assisted services to eligible youth and young adults between the ages of 16 and 21 in making a successful transition from foster care to independent living and achieve self-sufficiency. In addition to the County Children and Family Services, a Transitional Age Youth (TAY) center, operated by Pacific Clinic is also available.
4. Corrections programs and institutions: upon release, inmates are able to obtain housing in transitional and permanent housing programs, group homes, and sober living homes as well as with family and friends.

Discussion

The CoC has incorporated each of the following goals of Opening Doors into its 20-year plan to end homelessness:

1. Ending chronic homelessness through targeted street outreach (CDBG-Community Action-One Stop Shelter, CoC-Oxnard Homeless Outreach Program, VCHSA-Rapid Re-housing, HESG-Winter Warming Shelter), discharge planning and implementation of a housing first approach.
2. Preventing and ending homelessness among veterans by providing permanent supportive housing beds, in addition to Section 8 HUD VASH vouchers.
3. Preventing and ending homelessness for families, youth, and children by 2020 through rapid rehousing programs and homeless prevention activities. The CoC set a path to ending all types of homelessness in its 10-year plan by implementing a coordinated assessment system-Pathways to Home. As a result, the number of chronic homeless, veterans, families, and youth continue to demonstrate positive results.
4. All of the above objectives are still in progress and will be folded into a regional plan and strategy led by the County of Ventura.

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AP-75 Barriers to affordable housing – 91.220(j)

Introduction:

Barriers or constraints to the affordability of housing exist in many forms. A particular building code that to one sector might be interpreted as a "negative" public policy that acts as a barrier to affordable housing may to another sector be seen as a life-saving necessity – for example, seismic safety construction requirements. The same can be said for zoning and land use regulations. It should be noted that in Ventura County, local growth limitations have been adopted by direct ballot measures. Some of these measures entail costs which can affect housing supply and the cost of housing that is produced.

Barriers to exit homelessness include the lack of a permanent, year round shelter and the lack of housing units for those at the very low- and low- income spectrum. Because of the high cost to develop housing for these populations and limited public funding to subsidize the development of new affordable housing units, developers often do not have the resources to develop the number of units necessary to house this population. When this occurs, badly needed units go undeveloped, thus further limiting housing opportunities for those hardest to house.

Actions it planned to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment

Environmental review, general planning, zoning, and related local land use regulations and development standards are all extensions of local government police powers to protect life and property, minimize nuisances, and achieve a desired quality of life as expressed through a participatory democratic process. Certain barriers to affordability are imposed by the mandates created by State Law (such as preparing and adopting a General Plan and conducting environmental reviews), are adopted for safety or civil rights reasons (such as the imposition of seismic construction standards in quake-prone areas, or requiring compliance with accessibility or visitability design standards), or enacted to remedy or prevent a specific local issue (such as requiring landscaping to deter graffiti). The term "barrier" should not be interpreted in the context that local development standards and development review procedures are inhibiting the provision of quality affordable housing that would otherwise be developed, but are the cumulative effect of the development requirements imposed by the layers of government regulations and laws that impact residential development.

Discussion:

The City strives to consistently implement all policies and procedures, to review local development standards and development review procedures in such a way as to avoid and ensure that such do not have unintended negative consequences, and to improve policies and procedures so as to increase the

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opportunities and feasibility of developing affordable housing, especially for special needs and very low- and low-income units). The City will continue to engage in these efforts to identify and minimize any barriers over which the City has legal authority, in accordance with applicable law.

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AP-85 Other Actions – 91.220(k)

Introduction:

The City will implement the goals and strategies of the Consolidated Plan to achieve the other actions listed in the next section.

Actions planned to address obstacles to meeting underserved needs

The City will continue to utilize available resources to fund administrative support activities to meet the underserved needs in the community. The City will continue to work with the appropriate state agencies to administer the assets of the former redevelopment agency in the appropriate manner, and to the benefit of the LMI community whenever possible and feasible. Limited availability of funding from federal, state and other sources;

High cost of housing and provisions in the area which increases the difficulty of meeting affordable housing needs;

Reduced or frozen funding from state and other sources due to inadequate state revenue; the housing and credit crisis causing a negative effect;

A tight job market has produced an increased demand for production of new housing which is not being met, increasing home prices. Salaries are not commensurate with the high cost of housing in this market. These two factors combine to exacerbate the affordability crisis; and, credit crisis has limited the availability of capital to develop housing for low-and moderate-income households and special needs groups. City staff will address the challenges of existing and new obstacles in PY 2020 by focusing on the following programmatic and administrative areas: Staff will continue to research the availability of future funding resources that leverage the development of affordable housing units, inclusive of grants, bond financing, Section 108 funding and partnering with other affordable housing developers. CDBG and other funds will be used to fund administrative support for programs that serve the needs of LMI citizens citywide. This is especially critical now that no redevelopment agency funding is available, given that redevelopment agencies no longer exist in California. Staff will continue to collaborate with private-sector partners when appropriate in the development and construction of affordable housing.

Staff will continue to collaboratively work with the service provider community, non-profit organizations, and neighboring cities and local governmental agencies within the County of Ventura to identify projects that also meet federal community development program eligibility and which can comply with timely draw-down requirements.

Actions planned to foster and maintain affordable housing

The City utilizes its Inclusionary Housing Program to provide significant numbers of affordable housing units. To ensure that Oxnard has enough opportunity sites suitable for residential development and to meet the remaining RHNA affordable allocation of 2,497 lower income and moderate units and 53 above

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moderate income units, the City is relying on the following:

- The All Affordable Housing Opportunity Program (AAHOP) and Affordable Housing (AH) additive zone (see Supplement 2) with an inventory of 2,067 units on 38 AAHOP sites
- 66 Vacant and Underutilized Sites (see Supplement 2)

The City of Oxnard has adopted several ordinances that establish inclusionary affordable housing requirements for new developments. Relevant ordinances are City Council Ordinances 2721 and 2615. The Inclusionary Housing Program provides for in-lieu fee payments that can replace the on-site units within a development subject to approval by the City Council. The City is currently in the process of completing a study to increase the City's in-lieu fee. In-lieu fees for development project are as follows:

For-Sale Units: If the in-lieu request is granted, the developer is required to make a payment of 1 percent of the sales price of each for sale unit in the project based on increments of $50,000, with a minimum payment of $5,000 for each unit.

Rental Units: A payment is required for each rental unit. The price is adjusted every six months by the percentage increase or decrease for the previous six months as determined by the Los Angeles Riverside-Orange County Consumer Price Index for all urban consumers.

The City Council generally prefers on-site affordable housing as opposed to payment of in-lieu fees. A project that is approved for in-lieu payments has usually agreed to another public benefit through a Development Agreement that justifies the in-lieu payment. In-lieu payments are made when the developer applies for building permits for the approved units. The in-lieu fees collected provide funding support in the form of developer loans to new affordable housing projects and are almost always leveraged with other funding sources. The current in-lieu fund balance is approximately $2.8 million.

Possible incentives may include, but are not limited to, the following:

- Assistance with accessing and applying for funding (based on availability of federal, state, local foundations, and private funds)
- Mortgage-subsidy or down payment assistance programs to assist first- time homebuyers and other qualifying households, when such funds are available
- Expedited/streamlined application processing and development review
- Modification of development requirements, such as reduced setbacks and parking standards on a case-by-case basis
- Density bonus

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Actions planned to reduce lead-based paint hazards

The City will coordinate activities with the County of Ventura Department of Health and Human Services to reduce lead-based paint hazards in accordance with federal regulations. Any rehabilitation activities on housing units constructed prior to 1978 will have lead hazards identified and actions taken to remove the hazard. The City's Affordable Housing Division does not own or manage any housing units. All units for which HOME and CDBG assistance is provided for homebuyer assistance or homeowner rehabilitation are administered in compliance with HUD's HOME or CDBG regulations for lead-based paint, as applicable. With respect to units owned or assisted by the Oxnard Housing Authority, there have been no cases of Public Housing tenants and/or Section 8 participant households reporting or having been discovered to have poisoned children or any child with "Elevated Blood Lead Level". OHA staff provides a brochure related to lead based paint hazards to all new tenants and program participants. Maintenance staff attends training and seminars to stay current with the State of California Lead Awareness Training requirements.

Actions planned to reduce the number of poverty-level families

Eliminating poverty is a clear concern in Oxnard and Ventura County in general. Efforts are constantly underway to improve the quality of life and economic well-being of the residents through collaborative efforts of the following agencies and their programs to provide needed skills for individuals seeking jobs and thereby getting them out of poverty:

- City Corp
- Community Action of Ventura County
- Oxnard Housing Authority
- County of Ventura-Human Services Agency
- City's youth programs such Police Activities League programs, Colonia Gymnasium, Colonia Recreation Center and Boxing programs

Actions planned to develop institutional structure

Extensive public and private partnerships have been established and organized to address the City's housing, homeless, and community development needs: Entitlement Grants workshops and training, Affordable Housing workshops for homeowners, Relocation meetings for residents, Fair Housing training and other scheduled meetings (such as Pre-construction meetings, Commission on Homelessness meetings, and meetings with County Continuum of Care Council, Housing Committee meetings).

Actions planned to enhance coordination between public and private housing and social

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service agencies

The City will continue to collaborate with public and private housing and social service agencies to meet the goals and objectives of the Consolidated Plan. This could be from ongoing meetings, special meetings and meetings through the task force.

Discussion:

The City anticipates significant numbers of inclusionary affordable housing to be developed within several proposed specific plans and other new projects. Based on a thorough review, the City does not believe that the current inclusionary housing program is a constraint to the development of housing in addition to the incentives and concessions currently being offered and conversations with local developers who have been able to work within the requirement of the inclusionary housing program and produce housing. To further ensure the program does not pose a constraint, the City has included a monitoring process.

Other actions that the City of Oxnard will continue to improve compliance assessment for all its HUD funded programs and projects by 1) monitoring program and financial performance; 2) compliance with Environmental review: each project is reviewed for compliance with the National Environmental Protection Act. The City has a consulting agreement with Rincon to assist and perform the environmental reviews for housing developments and facility improvement projects, more complicated, and time consuming projects; 3) Labor Compliance Act: the City reviews and perform the contract administration of all CDBG-funded construction projects; 4) Section 3 Compliance: this function is also performed by the City; 5) Procurement and Purchasing: The City has its own procurement and purchasing policies managed by staff in the Finance Department; 6) Partnerships with Citizen Advisory Groups: Inter-Neighborhood Council Forum, Commission on Homelessness, Parks and Recreation and Community Services Commission, Mobilehome Park Rent Review Board, and Senior Services Commission.

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Program Specific Requirements

AP-90 Program Specific Requirements – 91.220(l)(1,2,4)

Introduction:

In addition to the 20% cap for Administration, the City of Oxnard also allocates 15% of 2020 CDBG funds for public services such as recreation programs for youth, homeless services, senior services and fair housing activities. The balance of the funds will be allocated to housing activities, code compliance and public facilities and improvements. In the event of an emergency (such as an earthquake, flooding, or hurricane ...) the City will cut the non-committed funds from other existing projects in order to fund the urgent need within the allowable range. However, the urgent need to meet the following tests: (1) the existing conditions pose a serious and immediate threat to the health and welfare of the community, (2) the existing conditions are recent or recently became urgent, generally 18 months, (3) the City cannot finance on its own, (4) and when other funding sources are not available.

Community Development Block Grant Program (CDBG)
Reference 24 CFR 91.220(l)(1)

Projects planned with all CDBG funds expected to be available during the year are identified in the Projects Table. The following identifies program income that is available for use that is included in projects to be carried out.

1. The total amount of program income that will have been received before the start of the next program year and that has not yet been reprogrammed	0
2. The amount of proceeds from section 108 loan guarantees that will be used during the year to address the priority needs and specific objectives identified in the grantee's strategic plan.	0
3. The amount of surplus funds from urban renewal settlements	0
4. The amount of any grant funds returned to the line of credit for which the planned use has not been included in a prior statement or plan	0
5. The amount of income from float-funded activities	0
Total Program Income:	**0**

Other CDBG Requirements

1. The amount of urgent need activities	0

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2. The estimated percentage of CDBG funds that will be used for activities that benefit persons of low and moderate income. Overall Benefit - A consecutive period of one, two or three years may be used to determine that a minimum overall benefit of 70% of CDBG funds is used to benefit persons of low and moderate income. Specify the years covered that include this Annual Action Plan.	100.00%

HOME Investment Partnership Program (HOME)
Reference 24 CFR 91.220(l)(2)

1. A description of other forms of investment being used beyond those identified in Section 92.205 is as follows:

   Other forms of local investments for housing that may be available to projects include financing from the City's in-lieu fees, CDBG funding. Additionally, the City also provides homebuyer assistance through the use of program income received from BEGIN and CALHOME State funded grant programs.

2. A description of the guidelines that will be used for resale or recapture of HOME funds when used for homebuyer activities as required in 92.254, is as follows:

   Refer to Questions # 3 for Resale Provisions & procedures.

   Recapture:
   Provisions
   • "In the event that the homebuyer fails to satisfy the requirements during the term of the loan, or otherwise defaults, the City shall exercise its legal rights, as set forth in the promissory note and deed of trust, in order to recover the monetary assistance previously provided to the maximum extent permitted by law."

   • "If the recapture provisions are triggered by a sale of the housing unit, (whether voluntary or involuntary – such as foreclosure) or other default, the City shall take all necessary steps to recover the full amount of HOME funds from the net proceeds. The phrase 'net proceeds' is defined as the sales price, minus the loan repayment of the first trust deed (other than HOME funds) and any closing costs."
   The HOME Program regulations allow the City to recapture the entire HOME Subsidy, in the event the loan recipient violates the affordability and or term period requirements. However, should the 'net proceeds' not cover the entire HOME Subsidy or not cover any of the HOME Subsidy, the City is required to forgive the remaining balance of the direct HOME Subsidy.

   • During the term of the loan, the homeowner must repay the loan if it is sold, transferred or

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refinanced without the City's permission and/or with cash out to the homeowner or the homeowner does not occupy the residence as a primary residence.

Procedures

The City utilizes an agreement which includes restrictions, and a promissory note secured by a deed of trust which is recorded with the Ventura County Recorder's Office. Staff monitors and requires certification annually by the homeowner that the property is owner-occupied to determine if recapture provisions shall be invoked upon discovery of violations for owner-occupancy or unauthorized transfers.

The City will exercise the rights stipulated in the promissory note, secured by the deed of trust that was recorded with the County Recorder's Office.

Should Borrower transfer (as that term is defined in the Note) the Property during the occupancy period, City shall require that Borrower pay from the net proceeds the full amount of the Loan. For purposes of this Loan Agreement, "net proceeds" shall mean the sales price minus loan repayment (other than CDBG funds) and closing costs.

In the event net proceeds are not sufficient to discharge the full amount of the Loan during the occupancy period plus enable the Borrower to recover his or her initial investment in the Property and documented costs of any capital improvements, Borrower shall share the net proceeds with City. The City's share of the net proceeds shall be calculated as follows:

(Amount of Loan / Amount of Loan + Borrower's Investment) = % of Net Proceeds that City is entitled to. Should the net proceeds not discharge the full amount of the Loan, City shall forgive the remaining balance.

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3. A description of the guidelines for resale or recapture that ensures the affordability of units acquired with HOME funds? See 24 CFR 92.254(a)(4) are as follows:

   Refer to Question #2 for Recapture provisions and procedures.

   Resale Provisions

   During the affordability period, the homeowner must resell to another low-income homebuyer if the property is refinanced without the City's permission and/or with cash out to the homeowner or the homeowner does not occupy the residence as a primary residence.

   The original homebuyer receives a fair return on investment, (i.e., the homebuyer's down payment plus capital improvements made to the house. It is important to note that in certain circumstances, such as a declining housing market where home values are depreciating, the original homebuyer may

not receive a return on his or her investment because the home sold for less or the same price as the original purchase price); and

In the event that the homebuyer fails to satisfy the requirements during the term, or otherwise defaults, the City shall exercise its legal rights, as set forth in the Resale Restriction Agreement.

Procedures
The City utilizes a Resale Restriction Agreement (RRA) secured by a deed of trust which is recorded with the Ventura County Recorder's Office.

Staff monitors and requires certification annually by the homeowner that the property is owner-occupied to determine if resale provisions shall be invoked upon discovery of violations for owner-occupancy or unauthorized transfers.

If the homeowner defaults or fails to satisfy requirements during the term, the City will exercise the rights stipulated in the Resale Restriction Agreement.

Property must be sold to an eligible low-income homebuyer which shall acquire the unit subject to the continuation of restrictions provided in the RRA through an assumption agreement. The purchase price must be affordable for a low-income household who earns up to 80% of the area median income, provided by HUD. The monthly cost for principal, interest, taxes, insurance, HOA fees, utilities, and maintenance should not be more than 30% of the monthly income for the household or otherwise stated in the RRA. There is no preference to a particular segment of the low-income population.
The resale price is calculated using one of two methods described below. The method used is identified in the RRA:

Determined as the affordable housing cost for a family at 80% of AMI paying no more than 30% of the monthly income for the household or in accordance of California Health And Safety Code 50025.5, whichever is lesser, but not less than the original price paid by homebuyer, or Determination using a CPI method to calculate the increase (or decrease) in value of the property. The U.S. Bureau of Labor Statistics Consumer Price Index – All Urban Consumers for the Los Angeles-Riverside- Orange Counties Area (all items based 1982-1984=100) provides the CPI on the date of the calculation and the CPI on the purchase date. The calculation is the CPI on the date of the calculation minus the CPI on the purchase date, plus the cost of improvements to property evidenced with receipts, less 7% depreciation, plus the costs of bringing the housing unit up to current building codes and in a salable condition.

4. Plans for using HOME funds to refinance existing debt secured by multifamily housing that is rehabilitated with HOME funds along with a description of the refinancing guidelines required that

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will be used under 24 CFR 92.206(b), are as follows:

The City currently does not have any plans to invest HOME funds in this type of activity.

5. If applicable to a planned HOME TBRA activity, a description of the preference for persons with special needs or disabilities. (See 24 CFR 92.209(c)(2)(i) and CFR 91.220(l)(2)(vii)).

6. If applicable to a planned HOME TBRA activity, a description of how the preference for a specific category of individuals with disabilities (e.g. persons with HIV/AIDS or chronic mental illness) will narrow the gap in benefits and the preference is needed to narrow the gap in benefits and services received by such persons. (See 24 CFR 92.209(c)(2)(ii) and 91.220(l)(2)(vii)).

7. If applicable, a description of any preference or limitation for rental housing projects. (See 24 CFR 92.253(d)(3) and CFR 91.220(l)(2)(vii)). Note: Preferences cannot be administered in a manner that limits the opportunities of persons on any basis prohibited by the laws listed under 24 CFR 5.105(a).

Emergency Solutions Grant (ESG)
Reference 91.220(l)(4)

1. Include written standards for providing ESG assistance (may include as attachment)

   The City does not provide any direct assistance under the HESG program any longer. All written standards vary by service providers and assistance type. However, all providers must ensure recipients meet the minimum qualifications established by HUD for each eligible funded activity. HESG Policies and Handbook are provided to all HESG subrecipients.

2. If the Continuum of Care has established a centralized or coordinated assessment system that meets HUD requirements, describe that centralized or coordinated assessment system.

   The Regional Ventura County Continuum of Care Alliance has established a centralized or coordinated assessment system, Pathways to Home, that provides coordination intake as well as systems to avoid duplication of effort and redundancies.

   Pathways to Home is centralized to provide identical information and system-wide tracking through HMIS, of all homeless individuals who seek and /or receive assistance at any one of the various service providers, or through the County directly.

3. Identify the process for making sub-awards and describe how the ESG allocation is available to private nonprofit organizations (including community and faith-based organizations).

   The process for making all sub-awards for HESG recipients are as follows:

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a. The City formally posts the Notice of Available Funds (NOFA) in the regional newspaper, on the City's website, and emails and paper mail are sent to all existing and potential service providers from Santa Barbara to Los Angeles.
b. All interested agencies attend information workshop/application training on the process, which includes all deadline dates and times.
c. Interested agencies then submit their application, project overview and qualifications
d. The Review Panel included representatives from City Advisory Groups.
e. The Review Committee reviews all proposals and provides scores for each eligible application. The funding recommendations are derived based on the scores.
f. The funding recommendations are adjusted to meet the available resources and cap requirements; reviewed by management and then submitted to the City Council for approval.
g. All applicants are contacted and urged to attend the City Council meeting in which the items fall on the agenda. All supporting comments and grievances are done at this time.
h. The Mayor and City Council directs the City Manager and staff to move forward with final processing.
i. Staff prepare all contracts for execution. Additionally, all internal processes are completed in order to encumber funds to each individual agency.
j. Contracts are completed and services can begin on July 1.
k. All HESG contracts are awarded for two years.

4. If the jurisdiction is unable to meet the homeless participation requirement in 24 CFR 576.405(a), the jurisdiction must specify its plan for reaching out to and consulting with homeless or formerly homeless individuals in considering policies and funding decisions regarding facilities and services funded under ESG.

The City meets the homeless participation requirement by having a homeless and formerly homeless person serve on the City's Commission on Homelessness. In addition, each entity receiving city HESG funding is also asked to provide information as to how they involve the homeless.

5. Describe performance standards for evaluating ESG.

PERFORMANCE MEASURES

Performance measures are in place to ensure the efficient administration of all HESG funded activities. Additionally, along with the utilization of the HMIS, these measures will hopefully help to reduce the length of time families and individuals remain homelessness, reduce the overall incidence of homelessness, and monitor the overall use of emergency shelters. Some of the activity measures are as follows:

• Emergency Shelters: Excluding winter shelters, must be able to document placement of a minimum of 10 percent of the homeless persons or households served in the Program Year into transitional or

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permanent housing.

• Transitional Housing: must be able to document placement of a minimum of 50 percent of the households who completed the transitional housing program in the Program Year into permanent housing. "Household" is defined as all clients including single individuals and families.
• Rapid Re-housing: must show continued housing of clients receiving assistance for at least three months after receiving assistance. This should be done via case management of clients, documentation and HMIS entry and exit dates.

• Eviction Prevention: must show continued housing of clients receiving assistance for at least three months. This should be done via case management of clients, documentation and HMIS entry and exit dates.
• All clients, with the exception of victims of domestic violence, must be entered into the Regional HMIS within 15 days of receiving service(s), and must be exited from the system within 30 days of program completion or termination.• MINIMUM STANDARDS: Sub-grantees are expected to have taken steps to meet the Minimum Standards for Homeless Programs within thirty days of executing the Program Year contract.

• BUILDING AND HABITABILITY STANDARDS: Any building for which HESG funding is used for renovation, major rehabilitation or conversion must meet local government safety and sanitation standards. In addition, the Sub-Grantee must meet a number of basic standards to ensure that shelter and housing facilities funded through the HESG program are safe, sanitary and adequately maintained.
• MONITORING: City staff will monitor the use of grant funds through a combination of a thorough review of all submitted reports, review of audit or financial statements, and monitoring and site visits.

The City will continue to develop and implement eligible activities using the grant funds and through the monitoring and review processes and techniques in order to comply with the federal specific requirements.

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Discussion:

The Homeless Assistance Division continues to fund all the activities prescribed in the HEARTH act. With the sub-recipients cooperation, the City's HESG will continue to provide substantial additional leverage funds to invest in the various programs in order to assist the homeless population toward the goal of reduction and ending homelessness. Also, HESG limits the cost categories for administration and planning to 7.5% or $16,581 and 60% for street outreach and emergency shelter $132,649; total $149,230 for those cost categories. The City's 2020 action plan allows the maximum toward $16,581 administration and planning, and a total of $71,853 or 32.5% toward other activities such as homeless prevention and rapid re-housing support.

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2020 CDBG CARES ACT 8TH AMENDMENT BUDGET REALLOCATION

PROPOSED CDBG-CV ACTIVITIES				
SUBRECIPIENT	**ACTIVITY DESCRIPTION**	**PREVIOUS EXPENDITURES**	**PROPOSED BUDGET INCREASE**	**NEW TOTAL**
HOUSING DEPT GRANTS MANAGEMENT DIVISION	ADMINISTRATION	220,577.87	88,258.13	308,836.00
HOUSING DEPT HOMELESS SERVICES DIVISION	CASE MANAGEMENT AND NON-CONGREGATE SHELTER	282,473.28	875,000.00	1,157,473.28
		PROPOSED BUDGET TOTALS:	**963,258.13**	**1,466,309.28**

CDBG-CV BUDGET SUMMARY	
1,300,340.14	PREVIOUS EXPENDITURES
578,973.12	ENCUMBRANCES
875,000.00	CASE MANAGEMENT AND NON-CONGREGATE SHELTER
88,258.13	ADMINISTRATION
245,795.61	UNCOMMITTED FUNDS
3,088,367.00	TOTAL CDBG-CV GRANT AWARD

2020-2021 Annual Action Plan Amendment Community Development Block Grant CARES Act

Brenda Lopez, Interim Housing Director
Housing Department

City Council
February 18, 2025

CITY OF OXNARD CALIFORNIA

BACKGROUND

1) The City Receives 3 Annual Entitlement Grants from the United States Department of Housing and Urban Development:

   a) Community Development Block Grant (CDBG)
   b) Home Investment Partnerships Program (HOME)
   c) Emergency Solutions Grant (ESG)

BACKGROUND

1) The City of Oxnard was awarded supplemental funding in the amount of $3,088,367 under the CDBG-Coronavirus (CDBG-CV) program and $5,255,005 under the ESG-Coronavirus (ESG-CV) program.

2) The supplemental funding has an added requirement for eligible services: prevent, prepare and respond to the coronavirus.

3) The ESG-CV grant was exhausted by September 30, 2023.

4) The CDBG-CV grant has an unallocated balance of $1,209,053.74 which must be expended by March 2, 2027.

DISCUSSION

1) On September 19, 2023, the City Council approved receipt of an Encampment Resolution Fund grant from the State of California for $4,015,638.88 to respond to the homeless encampments located on McWane Boulevard and at Fifth Street, east of Harbor Boulevard.

2) City Council further approved using the grant funds to support an agreement between the City and the County of Ventura totaling $1,163,614.34 for the delivery of outreach, case management and supportive services and $2,759,400 to be used for interim shelter. The end goal is to transition individuals to permanent supportive housing units.

3) All funding available within the State grant will be exhausted by April 30, 2025.

4) Staff is presenting a report to City Council on February 18, 2025, requesting approval to extend the agreements so that services can continue until the completion of the Casa de Carmen permanent supportive housing project.

DISCUSSION

5) The proposed amendments extend both agreements through August 31, 2025 and require additional allocation of $250,000 to the County of Ventura's agreement and $625,000 for interim shelter.

6) Staff recommends awarding $875,000 in CDBG-CV funding.

7) Staff requests an increase in administration budget by $88,258.13.

8) If proposed 2020-2021 Action Plan amendment is approved, $245,795.61 in CDBG-CV funds will remain available for future projects.

RECOMMENDATIONS

That City Council:

1) Conduct a public hearing regarding the fiscal year 2020-2021 Annual Action Plan Amendment;

2) Approve the fiscal year 2020-2021 Annual Action Plan amendment, specifically for the CARES Act reallocations;

3) Authorize the City Manager, and his designees, to incorporate the amended grant allocations into the 2020-2021 Annual Action Plan amendment for the CARES Act, and authorize the budget appropriations to fund the administration and projects, allowing adjustments within ten percent of the grant allocation or $200,000, whichever is greater;

RECOMMENDATIONS

4) Authorize the City Manager, and his designees, to execute the required documents to submit the 2020-2021 amended Annual Action Plan to the United States Department of Housing and Urban Development; and,

5) Authorize the City Manager, and his designees, to execute all of the agreements necessary for the implementation of the 2020-2021 Annual Action Plan Amendment.

End of Presentation

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. M.1

DATE: February 18, 2025

TO: City Council

FROM: Brenda Lopez, Interim Housing Director, (805) 385-8092, brenda.lopez@oxnard.org

SUBJECT: Second Amendment and Extension of the Agreement with the County of Ventura and local hotel operators in support of the Encampment Resolution Funding Program. (10 minutes)

RECOMMENDATION

That the City Council:

1. Approve and authorize the Mayor to execute a Second Amendment to Agreement No. 32400434 with the County of Ventura for partnership in delivery of encampment response outreach and case management services via the Ventura County Health Care Agency in the amount of $250,000 for a total agreement amount not to exceed $1,558,614.34, and to extend the term of the agreement to August 31, 2025;

2. Authorize the City Manager, or designee, to negotiate and execute agreements with local hotel operators through August 31, 2025 to offer non-congregate shelter.

(This item did not originate in Committee because it is a continuation of an item previously approved by City Council.)
Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/2wV7xKHPq7I

BACKGROUND

On September 19, 2023, the City Council approved receipt, and authorized appropriation, of an Encampment Resolution Funding Program grant from the State of California in the amount of $4,015,638.88 to respond to the continuing need at homeless encampments located on McWane Boulevard and at Fifth Street, east of Harbor Boulevard. City Council also approved an agreement with LeSar Support Services (Agreement No. 32400182) in an amount not to exceed $90,000 to provide grant administration services.

On November 7, 2023, the City Council authorized the Mayor to execute an agreement (Agreement No. 32400434) with the County of Ventura for partnership in delivery of encampment response outreach and case management services in an amount not to exceed $1,163,614.34 through October 31, 2024. Additionally, City Council authorized staff to negotiate and execute agreements with local hotel operators between November 1, 2023 and August 30, 2024. A total of 5 agreements were executed with hotel operators for a total expenditure of $1,968,537.

On September 17, 2024, the City Council approved a First Amendment to Agreement No. 32400434. This amendment increased the not to exceed total of the agreement to $1,308,614.34, and extended the agreement through April 30, 2025. In addition, City Council authorized staff to negotiate and execute agreements with local hotel operators through February 28, 2025. A total of 3 agreements with hotel operators were extended for a total expenditure of $648,487.54. As presented to Council on September 17, 2024, staff expected to return to Council before February 28, 2025 to extend the agreements if funding could be identified. As described in the February 18, 2025 Public Hearing item of the 2020-2021 Annual Action Plan Amendment, staff was able to identify additional funding.

To date the full $4,015,638.88 of the State grant have been encumbered.

DISCUSSION

The Encampment Resolution Funding Program ("The Program") has allowed the City of Oxnard and the County of Ventura to cooperate on an effort to relocate people from the above-mentioned encampments and provide interim non-congregate shelter (local hotel rooms). After the transition, case management services have been organized to identify permanent supportive housing units for the clients. As of January 2025, 23 clients in The Program have been matched to a permanent supportive housing unit. There are still 38 clients remaining, out of which 10 have been matched to a unit and are pending move out. At this time, The Program is primarily awaiting the completion of the Casa de Carmen permanent supportive housing units to transition the remaining clients. Unfortunately, completion of construction has been delayed from early February 2024 to August 2025. The unexpected delay, primarily related to a lengthy approval process from Southern California Edison (SCE) of the development's underground utility plan, has created a need to extend The Program to avoid exiting people and returning them to unsheltered homelessness. Therefore, staff recommends that The Program continue until the Casa de Carmen project is completed.

The extension of The Program through August 31, 2025 will require extensions to various agreements.

1. Staff is seeking to amend Agreement No. 32400434 to extend the agreement through August 31, 2025, and to add $250,000 of Community Development Block Grant CARES Act (CDBG-CV) grant funds to the agreement.

2. In addition, staff is seeking Council authority to authorize the City Manager, or designee, to negotiate and enter into agreements or extensions of existing agreements with hotel operators to offer non-congregate shelter through August 31, 2025, subject to review and approval by the City Attorney's office. These agreements or extensions of existing agreements will be funded with CDBG-CV grant funds.

If the Casa de Carmen development is not completed by August 31, 2025, staff may return to Council prior to August 31, 2025 to request authorization to extend the agreements and appropriate additional funds in support of The Program.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

The Housing Department has existing CDBG-CV (Fund 2018101-57410 G25XX) appropriations necessary to fund the agreement. The Fiscal Year 2020-2021 Annual Action Plan Amendment for the Community Development Grant CARES Act scheduled is pending Council approval on February 18, 2025.

The $875,000 of appropriated CDBG-CV grant funds will be allocated as follows:

1. $250,000 will be allocated to an extension of Agreement No. 32400434 with Ventura County Health Care Agency to August 31, 2025.

2. The remaining $625,000 will be allocated to fund new, or extensions to existing, agreements with local hotel operators to offer non-congregate shelter.

COMMITTEE OUTCOME

This item did not originate in Committee because it is a continuation of an item previously approved by City Council.

Prepared by: Brenda Lopez, Interim Housing Director

ATTACHMENTS

1. Agreement 32400434

2. First Amendment to Agreement 32400434
3. Second Amendment to Agreement 32400434 02.10.2025
4. Staff Report 09.17.2024
5. PRESENTATION

32400434

Agreement No. ~~32400272~~

AGREEMENT FOR PROFESSIONAL SERVICES

COVER PAGE

(1) Agreement Start Date: November 1, 2023

(2) Consultant: Ventura County Health Care Agency

(3) Services: Street Outreach and Case Management within Interim Shelter and Provision of Meals for Program Clients

(4) Schedule of Services: Services shall be provided between November 1, 2023, and October 31, 2024, inclusive.

(5) Agreement Ending Date: October 31, 2024

(6) Total Agreement Amount: $1,163,614.34

(7) City's Project Manager: Emilio Ramirez, Housing Director

(8) Consultant's Project Manager: Jessica Petrillo, CalAIM Program Manager

(9) Insurance Coverage: INS-A

(10) Addresses for Notice:

FOR CONSULTANT:	*FOR CITY:*
Ventura County Health Care Agency	435 South "D" Street
800 South Victoria Ave., L 4615, Ventura CA 93009	Oxnard CA 93030
Attn: Jessica Petrillo	Attn: Emilio Ramirez

(11) Contact Emails:

CONSULTANT'S PROJECT MANAGER	*CITY'S PROJECT MANAGER:*
jessica.petrillo@ventura.org	emilio.ramirez@oxnard.org

The Agreement for Professional Services is attached hereto and incorporated herein by this reference. The following exhibits are also attached hereto and incorporated herein by this reference into the Agreement:

☐ Scope of Services Exhibit

☐ Rates and Costs Exhibit

☐ Insurance Exhibit (INS-)

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES ("Agreement") is entered into in Ventura County, California, on the date that is written as "(1) Agreement Start Date" on the Cover Page, which is attached hereto and incorporated herein by this reference. This Agreement is entered by and between the City of Oxnard ("City") and the person or entity listed as "(2) Consultant" on the Cover Page, subject to the following terms and conditions:

1. Scope of Services. Consultant shall provide to City the services listed as "(3) Services" on the Cover Page (the "Services"). Consultant shall provide the Services during the term of this Agreement, as set forth below, according to the schedule written as "(4) Schedule of Services" on the Cover Page, and as further explained in the Scope of Services Exhibit, which is attached hereto and incorporated herein by this reference. In the event of any conflict between the terms of this Agreement and any incorporated document(s), the terms of this Agreement shall control.

2. Standard of Performance. Consultant shall undertake and complete the Services to conclusion using the standard of care, skill and diligence normally provided by a professional person in the performance of similar consulting services.

3. Correction of Errors. Consultant shall correct, at its expense, all errors which may be disclosed during review of the Services. Should Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by City, and the cost thereof shall be paid by Consultant.

4. Term. This Agreement shall begin on the date that is written as "(1) Agreement Start Date" on the Cover Page and shall end on the date that is written as "(5) Agreement Ending Date" on the Cover Page. Time is of the essence in this Agreement.

5. Compensation. For the Services performed during the term of this Agreement, City shall pay Consultant an amount not to exceed the amount that is listed as "(6) Total Agreement Amount" on the Cover Page, at the rates listed in Rates and Costs Exhibit, attached hereto and incorporated herein by this reference. The rates in Rates and Costs Exhibit shall be in effect through the end of this Agreement. Except as otherwise expressly provided in this Agreement, City shall not be responsible for expenses incurred by Consultant in performing the Services.

6. Invoices. Consultant shall submit a payment request to City by the end of each calendar month listing the Services provided, costs of those Services, and total amount due for the month. Each invoice must also list the current balance on the Agreement, including that invoice, as well as the months remaining on the term of the Agreement. Invoices may be emailed to: invoices@oxnard.org.

7. Acceptance of Payment. Consultant's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to Consultant for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of Consultant for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Consultant and its employees, agents and subcontractors. Consultant shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by Consultant or materials or products provided to City by

Consultant, Consultant shall pay the sales tax. City shall not reimburse Consultant for sales taxes paid by Consultant.

8. Non-Appropriation of Funds. Payments to be made to Consultant by City for the Services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted and unencumbered appropriation of City. In the event City does not appropriate sufficient funds for payment of the Services beyond the current fiscal year, this Agreement shall cover payment for the Services only up to the conclusion of the last fiscal year in which City appropriated sufficient funds and shall automatically terminate at that fiscal year's conclusion.

9. Coordination of Services. The Services shall be coordinated with the person in the position listed in "(7) City's Project Manager" on the Cover Page, subject to the direction of the City Manager and Department Director. Consultant hereby designates the person in the position listed in "(8) Consultant's Project Manager" on the Cover Page as the person responsible for the Services who shall coordinate with City's Project Manager in making binding decisions in line with this Agreement on behalf of Consultant.

10. Personnel. Consultant represents that it has, or shall secure at its own expense, all personnel required to perform the Services. Any person who performs engineering services pursuant to this Agreement shall be licensed as a Civil Engineer by the State of California and in good standing. Consultant shall make reasonable efforts to maintain the continuity of Consultant's staff who are assigned to perform the Services. Consultant may associate with or employ associates or subcontractors in the performance of the Services, but at all times shall Vendor be responsible for its associates and subcontractors' labor, advice or materials provided in furtherance of providing the Services. Should any of Consultant's employees, assigns or subcontractors not conduct him- or herself appropriately, as determined by the City's Project Manager, in the process of providing the Services or any portion thereof, the City's Project Manager may notify the Consultant's Project Manager, who shall immediately handle the problem, as determined appropriate by him or her, such that the problem does not persist.

11. Additional Work. City may request additional specified work under this Agreement. The City's Project Manager must authorize all such work in writing before commencement. Consultant shall perform such work, and City shall pay for such additional work, in accordance with Rates and Costs Exhibit. Should the work not fall under any such listed rate or cost, Consultant shall submit a quote for all additional work, which the City's Project Manager must approve in writing by before any such work may commence. The City shall compensate Consultant for any work that does not fall under a rate or cost listed in the Rates and Costs Exhibit, and for which Consultant did not obtain the City's Project Manager's written approval before work commenced, as determined by the City's Project Manager in his or her sole discretion.

12. Audit. City shall have the option of inspecting, auditing and/or reproducing all records and other written materials used by Consultant in preparing its billings to City as a condition precedent to any payment to Consultant. Consultant will promptly furnish all documents requested by City. Additionally, if this Agreement is in excess of $10,000, the State Auditor may examine and audit Consultant for a period of 3 years after final payment under the Agreement. Regardless of whether a State audit is permitted, Consultant shall maintain and preserve all such records for a period of at least 3 years after final payment under the Agreement. Consultant shall

include a copy of this Section 12 in all contracts with its subcontractors, and Consultant shall be responsible for immediately obtaining those records or other written material from its subcontractors upon a request by the State Auditor and/or City.

13. Termination. City may terminate this Agreement at any time, with or without cause and without penalty, upon 15 days prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 10 calendar days from the date of delivery or mailing of such notice. Consultant may terminate this Agreement at any time, with or without cause and without penalty, upon 30 days prior written notice. Such termination shall be effective on the date specified in the notice, or if no date is specified, then 10 calendar days from the date of delivery or mailing of such notice and only if all assignments accepted by Consultant have been completed before the date of termination. In the event of termination of this Agreement by either party due to no fault or failure of performance by Consultant, City shall pay Consultant compensation for all Services satisfactorily completed in accordance with all of the terms and provisions of this Agreement, as determined by the City, before the effective date of termination; provided, in no event shall the Consultant receive an amount exceeding that which would have been paid to Consultant for the full performance of the Services.

14. Hold Harmless, Defense and Indemnity.

If Consultant provides any architectural, landscape architectural, engineering or land surveying ("design professional") services, to the maximum extent permitted by law, Consultant shall hold harmless, defend, and indemnify City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (collectively, "Indemnitees") from and against any and all claims, demands, causes of action, damages, injuries, liabilities, losses, penalties, fines, judgments, costs or expenses, including reimbursement of attorneys' fees, court costs and costs of alternative dispute resolution, including but not limited to those relating to death or injury to any person and injury to any property (collectively, "Claims"), to the extent that the Claims arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Consultant or of any of its officers, employees, subcontractors or agents in the performance of the Agreement or in the failure to comply with any of the obligations contained in this Agreement. Consultant's obligation to defend is a separate and distinct obligation from Consultant's duty to indemnify and applies through final judgment, including exhaustion of any appeals. Consultant shall be obligated to defend Indemnitees in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, to the extent required herein immediately upon tender to Consultant of the Claim in any form or at any stage of an action or proceeding. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that the liability is caused in whole or in part by the negligence or willful misconduct of any of the Indemnitees.

If Consultant provides no design professional services, to the maximum extent permitted by law, Consultant shall hold harmless, defend and indemnify the Indemnitees from and against any and all Claims, which arise out of, pertain to, or relate to the performance of this Agreement, or the failure to comply with any of the obligations contained in this Agreement, by Consultant or of any of its officials, directors, officers, employees, subcontractors, or agents. Consultant's obligation to defend is a separate and distinct obligation from Consultant's duty to indemnify and applies through final judgment, including exhaustion of any appeals. Consultant shall be obligated to defend Indemnitees in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, immediately upon tender to Consultant of the Claim

in any form or at any stage of an action or proceeding. The defense obligation includes the obligation to provide independent defense counsel if Consultant asserts that the liability is caused in whole or in part by the negligence or willful misconduct of any of the Indemnitees.

a. The review, acceptance or approval of Consultant's work or work product by any of the Indemnitees shall not affect, relieve or reduce Consultant's indemnification or defense obligations. This Section 14 shall survive completion of the Services or termination of this Agreement. The provisions of this Section 14 shall not be restricted by and does not affect the provisions of this Agreement relating to insurance.

15. Insurance. Consultant shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed within the insurance document stated in "(9) Insurance Coverage" on the Cover Page and in the Insurance Exhibit, which is attached hereto and incorporated herein by this reference, unless the City's Risk Manager waives, in writing, the requirement that Consultant obtain and maintain such insurance coverages. Consultant shall, before performance of any Services, file with the City's Risk Manager evidence of insurance coverage as specified in "(9) Insurance Coverage" on the Cover Page and in the Insurance Exhibit. Maintenance of insurance coverages by Consultant is a material element of this Agreement. Consultant's failure to maintain or renew insurance coverages or to provide renewal evidence, and any lapse in insurance coverage, may be considered a material breach of this Agreement.

16. Documents and Materials.

a. All final computations, exhibits, files, plans, correspondence, reports, drawings, designs, data, photographs, specifications, information, images, video files, media, or other deliverables prepared, created, drawn, calculated, photographed or developed by Consultant pursuant to this Agreement ("Documents and Materials") shall be the City's property without restriction or limitation upon its use, duplication or dissemination. All Documents and Materials shall be considered "works made for hire," and all Documents and Materials and any and all intellectual property rights arising from their creation, including, but not limited to, all copyrights and other proprietary rights, shall be and remain the property of the City without restriction or limitation upon their use, duplication or dissemination by the City. Consultant shall not obtain or attempt to obtain copyright protection as to any Documents and Materials. Consultant hereby assigns to the City all ownership and any and all intellectual property rights to the Documents and Materials that are not otherwise vested in the City pursuant to this Section 16.

b. Consultant shall deliver all Documents and Materials to City's Project Manager upon completion of the Services or termination of this Agreement without additional cost or expense to the City. Additionally, anytime at City's request, City shall be entitled to possession of, and Consultant shall furnish to City's Project Manager within 10 calendar days, any or all of the Documents and Materials without additional cost or expense to the City. In both situations, if Consultant prepares Documents and Materials on a computer, Consultant shall provide City with said Documents and Materials both in a printed format and in an electronic format that is acceptable to the City. Consultant may retain copies of these Documents and Materials but must request permission from the City before use, duplication or dissemination of these Documents and Materials for any purpose other than for the Services provided to the City pursuant to this Agreement.

c. Any substantive modification of the Documents and Materials by City staff or any

use of the completed Documents and Materials for other City projects, or any use of incomplete Documents and Materials, without the written consent of Consultant, shall be at City's sole risk and without liability or legal exposure to Consultant.

d. Consultant warrants and represents that it has secured all necessary licenses, consents or approvals to use any instrumentality, thing or component as to which any intellectual property right exists, including computer software, used in the rendering of the Services and the production of all Documents and Materials, and that the City has full legal title to and the right to use, duplicate or disseminate the Documents and Materials. Consultant shall defend, indemnify and hold Indemnitees harmless from any loss, claim or liability in any way related to a claim that City's use of any of the Documents and Materials is violating federal, state or local laws, any contractual provisions, or any laws relating to trade names, licenses, franchises, copyrights, patents or other means of protecting intellectual property rights and/or interests in products or inventions. Consultant shall bear all costs arising from the use of patented, copyrighted, trade secret or trademarked documents, materials, equipment, devices or processes in connection with its provision of the services and Documents and Materials. In the event the use of any of the Documents and Materials by the City is held to constitute an infringement and the use of any of the same is enjoined, Consultant, at its own expense, shall: secure for City the right to continue using the Documents and Materials by suspension of any injunction, or by procuring a license or licenses for City; or modify the Documents and Materials so that they become non-infringing while remaining in compliance with the requirements of this Agreement.

e. This Section 16 shall survive the termination of this Agreement.

17. Confidentiality of Information.

a. For the purposes of this Agreement, "Confidential Information" means all information, in whatever form transmitted, relating to the past, present or future business affairs of the City, including without limitation, (i) technical information, including patent, copyright, trade secret, and other proprietary information, techniques, sketches, drawings, models, inventions, processes, apparatus, equipment, algorithms, software programs, software source documents, and formulas; or (ii) non-technical information, including without limitation finances, financial and accounting data and information, suppliers, customers, customer lists, purchasing data and any other information belonging to the City or to a third party whose information is in the City's possession or control under obligations of confidentiality, and which is disclosed to Consultant or is developed by Consultant in whole or in part at the City's expense.

b. All Documents and Materials shall be considered Confidential Information and shall not be reproduced, transmitted, disclosed or used by the Consultant without the written consent of the City, except as may be necessary for Consultant to fulfill its obligations to the City.

c. Notwithstanding the above, these limitations shall not apply to information that (i) is already known to Consultant at the time of that information's disclosure or becomes publicly known through no wrongful act or omission of Consultant, (ii) is communicated to a third party with the express written consent of City and is not subject to restrictions on further use or disclosure, (iii) is independently developed by Consultant and has no relation to this Agreement, or (iv) is required by law, court order, court-issued subpoena or other legal process to be disclosed; provided, however, that before making such disclosure, Consultant shall immediately provide City with written notice and a reasonable opportunity for City to object to the disclosure

or to take action to maintain the confidentiality of the information, unless such prior disclosure is legally impermissible.

d. Consultant shall use reasonable care to protect the Confidential Information. In the event of a breach or threatened breach of this Agreement, City shall be entitled to obtain an injunction prohibiting any such breach, the costs of which shall be paid by Consultant. Any relief granted shall be in addition to and not in lieu of any other legal or equitable relief, including money damages. The parties acknowledge that Confidential Information is valuable and unique and that disclosure of the Confidential Information in breach of this Agreement may result in irreparable injury to the City.

e. Other than an obligation upon the City to deal in good faith, the City makes no warranties and shall bear no liability or responsibility for errors or omissions in any Confidential Information disclosed under this Agreement or for any business decisions made by Consultant in reliance on any Confidential Information disclosed under this Agreement.

f. This Section 17 shall survive the termination of this Agreement.

18. Independent Contractor. Consultant is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of Consultant or any of its employees, except as stated in this Agreement. Consultant has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting Consultant, and it is free to dispose of all portions of its time which it is not obligated to devote to City in such a manner and to such persons, firms, or corporations as Consultant wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude Consultant from rendering any services for Consultant's own account or to any other person or entity as Consultant in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services Consultant shall perform for the City. Except as City's Project Manager specifies in writing, Consultant and its employees and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. Consultant and its employees are not employees of City. Consultant and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and health, life, dental, long-term disability and workers' compensation insurance benefits. Consultant shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. Consultant agrees to pay all required taxes on amounts paid to Consultant under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of Consultant's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. City shall have the right to offset against the amount of any compensation due to Consultant under this Agreement any amount due to City from Consultant as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section 18.

19. Nondiscriminatory Employment. Consultant shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. Consultant understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, Consultant shall be responsible for such subcontractor's compliance with this Section 19.

20. Consultant's Representations. Consultant represents, covenants and guarantees that: a) Consultant is licensed, qualified, and capable of furnishing the labor, materials, and expertise necessary to perform the Services in accordance with the terms and conditions set forth in this Agreement; b) there are no obligations, commitments, or impediments of any kind that will limit or prevent Consultant's full performance under this Agreement; c) to the extent required by the standard of practice, Consultant has investigated and considered the scope of Services performed, has carefully considered how the Services should be performed, and understands the facilities, difficulties and restrictions attending performance of the Services under this Agreement.

21. Compliance with Laws. In performing the Services under this Agreement, Consultant shall comply with all applicable laws, ordinances and regulations. Before providing any Services under this Agreement, Consultant shall, at its own expense, obtain and maintain all required certificates, licenses and permits, including a City business tax certificate.

22. Conflict of Interest. If, in performing the Services set forth in this Agreement, Consultant makes, or participates in, a "governmental decision" as described in Title 2, Section 18704 of the California Code of Regulations, or performs the same or substantially all the same duties for City that would otherwise be performed by a City employee holding a position specified in City's conflict of interest code, Consultant shall be subject to City's conflict of interest code, the requirements of which include the filing of one or more statements of economic interests disclosing the relevant financial interests of Consultant's personnel providing the Services set forth in this Agreement. Furthermore, Consultant shall not to accept any employment or representation during the term of this Agreement or within 12 months after completion of the Services which is or may likely make Consultant "financially interested," as provided in California Government Code Sections 1090 and 87100, in any decisions made by City on any matter in connection with which Consultant has been retained pursuant to this Agreement.

23. Fictitious Name. If Consultant has a fictitious name, Consultant shall submit to City a new Fictitious Business Name Statement approved by any California county before Consultant's prior Fictitious Business Name Statement expires if such expiration may occur during the term of this Agreement, including any term amendment.

24. Non-Assignability. This Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's personnel's unique competence, experience and specialized personal knowledge. Consultant shall not assign or transfer any interest in this Agreement or any part thereof, whether by assignment or novation, without City's prior written consent, which may be withheld for any reason or for no reason at all. Any purported assignment without written consent shall be null, void, and of no effect, and Consultant shall hold harmless,

defend and indemnify Indemnitees from and against all Claims arising from or relating to any unauthorized assignment.

25. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of Consultant.

26. Applicable Law; Venue. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California, excluding California's choice of law rules. Venue for any such action relating to the Agreement shall be in the Ventura County Superior Court.

27. Titles. The titles used in this Agreement are for convenience only and shall in no way define, limit or describe the scope or intent of this Agreement or any part of it.

28. Force Majeure. Neither City nor Consultant shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include but are not be limited to acts of God, riots, acts of war, epidemics, fire, earthquakes, or other disasters.

29. Authority. Any person executing this Agreement on behalf of Consultant warrants and represents that s/he has the authority to execute this Agreement on behalf of Consultant and to bind it to the performance of these obligations.

30. Binding Agreement. The parties do not intend this Agreement to be binding upon them and shall not be held liable to its terms until it is fully executed by all required signers.

31. Integration; Amendment. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and Consultant regarding the subject matter described herein. This Agreement supersedes all prior oral or written communications, negotiations, representations, agreements and promises. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing, signed by both parties, that expressly refers to this Agreement.

32. Construction. In the event of any asserted ambiguity in or dispute regarding the interpretation of any matter herein, the interpretation of this Agreement shall not be resolved by any rules of construction providing for interpretation against the party who causes the uncertainty to exist or who drafted the Agreement in whole or in part.

33. No Waiver. Waiver by either party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default that may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

34. Attorneys' Fees. The prevailing party shall be entitled to recover reasonable costs, attorneys' fees (including the reasonable value of the services rendered by the City Attorney's Office) and expenses, including investigation fees and expert witness fees, in addition to any other relief to which that party may be entitled, in any legal action or other proceeding, including an action for declaratory relief, for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with this Agreement.

35. Notice. Except as otherwise required by law, a notice or communication authorized or required by this Agreement shall be in writing and shall be deemed received on (a) the day of delivery if delivered by hand or overnight courier service during City's regular business hours or (b) the third business day following deposit in the United States mail, postage prepaid to the addresses listed as "(10) Addresses for Notice" on the Cover Page or at such other address as one party may notify the other in writing.

36. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement. A signed copy of this Agreement transmitted by email to Project Managers' emails listed in "(11) Contact Emails" on the Cover Page or by other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes.

37. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

[Signatures on next page]

32400434
Agreement No. ~~32400272~~

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on the date that is written as "(1) Agreement Start Date" on the Cover Page.

CITY OF OXNARD

11-7-23

John C. Zaragoza
Mayor

Date

CONSULTANT

12/15/2023

Barry L. Zimmerman
Health Care Agency Director

Date

12/20/2023

Theresa Cho, MD
CEO, Ambulatory Care

Date

ATTEST

11/8/23

Rose Chaparro
City Clerk

Date

APPROVED AS TO FORM

11/7/23

Stephen M. Fischer
City Attorney

Date

SCOPE OF SERVICES EXHIBIT

Name of Agency: Ventura County Health Care Agency / Ambulatory Care

Location Address: 800 South Victoria Avenue, Ventura, CA 93004

Project Name: ERF-2-R Encampment Response Project

Consultant will provide street outreach and case management services and will ensure provision of meals to clients from the homeless encampments known as "5th and Harbor" and "McWane".

The specific areas in which the Consultant will provide services are:

Street Outreach: Consultant will

1. Provide street outreach staff including Community Health Workers and an Alcohol and Drug Treatment Specialist who will locate, identify, and build relationships with encampment inhabitants for the purpose of providing immediate support, intervention, and connections with homeless assistance programs.
2. Create a by-name list of encampment inhabitants along with identified needs for each person.
3. Invite encampment inhabitants to the encampment response program, and if the person agrees, formalize service agreements.
4. Work with each client to get 'document ready' for housing including completing assessments and referrals through the Coordinated Entry System.
5. Facilitate connection of encampment inhabitants to the interim shelter and housing options, including connection to the interim shelter component of this project.

Case Management within Interim Shelter: Consultant will

1. Provide Community Health Workers (CHW) who will provide case management services with clients who have moved from the specified encampments and have moved into the interim shelter component of this program (provided by the City of Oxnard).
2. Ensure that each client is assigned a CHW who will work with the client to create a pathway to permanent housing, including permanent supportive housing units at "Casa de Carmen" and "Central Terrace" that have been prioritized for this project.
3. Assist clients to create a housing plan, including obtaining necessary documentation to move forward in the client's housing connection process. Each client will have a completed VAT assessment and be entered into the Coordinated Entry System (CES).
4. Facilitate linkages to community providers for substance abuse, primary and mental health care, and all other services needed to assist clients in reaching housing stabilization.

Consultant will also maintain records in accordance with the Homeless Management Information System (HMIS), including recording case notes, and provide all required reporting including quarterly reports with fiscal and programmatic data reflecting the progress of this project.

Provision of Meals: Consultant will

1. Ensure the provision of meals to clients for the duration of their enrollment in the interim shelter and case management components of this program.

BUDGET AND REPORTING EXHIBIT

Name of Agency: Ventura County Health Care Agency/ Ambulatory Care

Location Address: 800 South Victoria Avenue, Ventura, CA 93004

Project Name: ERF-2-R Encampment Response Project

Budget Narrative:

Operating costs for the Street Outreach and Shelter Case Management and Provision of Meals for the Encampment Resolution Funding (ERF-2-R) Project.

Budgeted Line Items:

Total Budgeted Amount Not to Exceed $1,163,614.34

For the purpose of this agreement, the not-to-exceed budgeted amount for this 12-month agreement shall be $1,163,614.34, consisting of the following elements:

Budget Category	Authorized Budget
Program Personnel (salary and benefits)	$559,781.04
Provision of Meals for Program Clients	$416,100
Administrative Personnel (salary and benefits)	$176,149.30
Administrative Costs (transportation and cellphones)	$11,584
TOTAL	**$1,163,614.34**

In addition to the above budgeted amounts, Ventura County Health Care Agency will be providing the following personnel in-kind: Community Services Coordinator who will work with eligible clients on housing navigation, and CalAIM Program Manager who will oversee the administration of the program.

Schedule of payment:

Consultant shall invoice the City on a quarterly basis.

32400434

Agreement No. ~~32400272~~

INSURANCE EXHIBIT

INS A

Agreement No. 32400434

FIRST AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

This First Amendment ("First Amendment") to the Agreement for Professional Services ("Agreement") is made and entered into in the County of Ventura, State of California, this 10th day of September, 2024 by and between the City of Oxnard, a municipal corporation ("City"), and The Ventura County Health Care Agency ("Consultant"). This First Amendment amends the Agreement entered into on November 1, 2023, by City and Consultant.

City and Consultant agree as follows:

1. The "Schedule of Services" in Section 4 of the Cover Page of the Agreement is hereby amended to "Services shall be provided between November 1, 2023, and April 30, 2025, inclusive.
2. The "Agreement Ending Date" in Section 5 of the Cover Page of the Agreement is hereby amended to "Agreement Ending Date: April 30, 2025". The parties may extend the Agreement until August 31, 2025 by mutual execution of a second amendment and Amended budget.
3. The "Total Agreement Amount" in Section 6 of the Cover Page of the Agreement is hereby amended to "Not to exceed $1,308,614.34."
4. The reference to the "Budget and Reporting Exhibit" everywhere it is listed in the Agreement is hereby amended to the new **Amended Budget and Reporting Exhibit**. The Budget and Reporting Exhibit is hereby disincorporated; instead, the new **Amended Budget and Reporting Exhibit** is attached hereto and incorporated herein by this reference.
5. As so amended, the Agreement remains in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

City of Oxnard

12-11-24

John C. Zaragoza
Mayor

Date

Ventura County Health Care Agency

12/2/2024

Theresa Cho, MD
Health Care Agency Director

Date

11/27/24

Allison Blaze, MD
Interim Chief Executive Officer, Ambulatory Care

Date

ATTEST:

12/9/24

Rose Chaparro
City Clerk

Date

APPROVED AS TO FORM:

12/4/24

Stephen M. Fischer
City Attorney

Date

AMENDED BUDGET AND REPORTING EXHIBIT

Name of Agency: Ventura County Health Care Agency/ Ambulatory Care

Location Address: 800 South Victoria Avenue, Ventura, CA 93004

Project Name: ERF-2-R Encampment Response Project

Budget Narrative:

Operating costs for the Street Outreach and Shelter Case Management and Provision of Meals for the Encampment Resolution Funding (ERF-2-R) Project.

Budgeted Line Items:

Total Budgeted Amount Not to Exceed $1,308,614.34

For the purpose of this agreement, the not-to-exceed budgeted amount for this 12-month agreement shall be $1,308,614.34, consisting of the following elements:

Budget Category	**Authorized Budget**
Program Personnel (Salary and Benefits)	$659,653.34
Provision of Meals for Program Clients	$637,377.00
Administrative Costs (Transportation and Cellphones)	$11,584.00
TOTAL	**$1,308,614.34**

In addition to the above budgeted amounts, Ventura County Health Care Agency will be providing the following personnel in-kind: Community Services Coordinator who will work with eligible clients on housing navigation, and CalAIM Program Manager who will oversee the administration of the program.

Schedule of payment:

Consultant shall invoice the City on a quarterly basis.

SECOND AMENDMENT TO AGREEMENT FOR PROFESSIONAL SERVICES

This Second Amendment ("Second Amendment") to the Agreement for Professional Services ("Agreement") is made and entered into in the County of Ventura, State of California, this 18th day of February, 2025 by and between the City of Oxnard, a municipal corporation ("City"), and The Ventura County Health Care Agency ("Consultant"). This Second Amendment amends the Agreement entered into on November 1, 2023, by City and Consultant. The Agreement previously was amended on September 10, 2024, by a First Amendment.

City and Consultant agree as follows:

1. The Consultant in Section 2 of the Cover Page of the Agreement is hereby amended to "The County of Ventura, through its Ventura County Health Care Agency."

2. Section 4 of the Cover Page of the Agreement is hereby amended to read "Schedule of Services: Services shall be provided between November 1, 2023, and August 31, 2025, inclusive."

3. The date in Section 5 of the Cover Page of the Agreement is hereby amended to "August 31, 2025."

4. The amount in Section 6 of the Cover Page of the Agreement is hereby amended to "$1,558,614.34."

5. In Section 10 of the Cover Page of the Agreement, the name "Emilio Ramirez" is deleted and replaced with "Brenda Lopez".

6. In Section 11 of the Cover Page of the Agreement, the contact email for City's Project Manager is deleted and replaced with "brenda.lopez@oxnard.org".

7. The Budget and Reporting Exhibit and Amended Budget and Reporting Exhibit attached to the Agreement are hereby deleted; instead, the attached Second **Amended Budget and Reporting Exhibit** attached hereto is incorporated herein by this reference.

8. As so amended, the Agreement remains in full force and effect.

[Signatures on next page]

IN WITNESS WHEREOF, the parties hereto have executed the Amendment on the date first written above.

CITY OF OXNARD

_____ _____
Luis Mc Arthur, Mayor Date

ATTEST:

_____ _____
Lourdes A. López, City Clerk Date

APPROVED AS TO FORM:

_____ _____
Stephen M. Fischer, City Attorney Date

COUNTY OF VENTURA

_____ _____
Theresa Cho Date
Health Care Agency Director

_____ _____
Allison Blaze, MD Date
Interim Chief Executive Officer, Ambulatory Care

SECOND AMENDED BUDGET AND REPORTING EXHIBIT

Name of Agency: Ventura County Health Care Agency/ Ambulatory Care

Location Address: 800 South Victoria Avenue, Ventura, CA 93004

Project Name: ERF-2-R Encampment Response Project

Budget Narrative:

Operating costs for the Street Outreach and Shelter Case Management and Provision of Meals for the Encampment Resolution Funding (ERF-2-R) Project. Operating costs in an amount not-to-exceed $250,000 will be financed by CDBG-CV funding.

Budgeted Line Items:

Total Budgeted Amount Not to Exceed $1,558,614.34

For the purpose of this agreement, the not-to-exceed budgeted amount for this agreement shall be $1,558,614.34, consisting of the following elements:

Budget Category	Authorized Budget
Program Personnel (Salary and Benefits)	$797,147.07
Provision of Meals for Program Clients	$749,883.27
Administrative Costs (Transportation and Cellphones)	$11,584
TOTAL	**$1,558,614.34**

In addition to the above budgeted amounts, Ventura County Health Care Agency will be providing the following personnel in-kind: Program Assistant and CalAIM Program Manager who will oversee the administration of the program.

Schedule of payment:

Consultant shall invoice the City on a quarterly basis.

CITY COUNCIL AGENDA REPORT

INFORMATION/CONSENT AGENDA
AGENDA ITEM NO. L.5

DATE: September 17, 2024

TO: City Council

FROM: Emilio Ramirez, Housing Director, (805) 385-8094, emilio.ramirez@oxnard.org

SUBJECT: Amendment and Extension of the Agreement with the County of Ventura and local hotel operators in support of the Encampment Resolution Funding Program.

RECOMMENDATION

That the City Council:

1. Approve and authorize the Mayor to execute a First Amendment to Agreement No. 32400434 with the County of Ventura for partnership in delivery of encampment response outreach and case management services via the Ventura County Health Care Agency in the amount of $145,000 for a total agreement amount not to exceed $1,308,614.34, and to extend the term of the agreement to April 30, 2025;
2. Authorize the City Manager, or designee, to negotiate and execute agreements with local hotel operators through February 28, 2025 to offer non-congregate shelter.

(This item did not originate in Committee because it is a continuation of an item previously approved by City Council.)

BACKGROUND

On September 19, 2023, the City Council approved receipt, and authorized appropriation, of an Encampment Resolution Funding Program grant from the State of California in the amount of $4,015,638.88 to respond to the continuing need at homeless encampments located on McWane Boulevard and at Fifth Street east of Harbor Boulevard. On September 19, 2023, the City Council also approved an agreement with LeSar Support Services (Agreement Number 32400182) to provide administrative services to aid the City of Oxnard to ensure compliance with the regulations and completion of reports due to the State of California.

On November 7, 2023, the City Council authorized the Mayor to execute an agreement (Agreement No. 32400434) with the County of Ventura for partnership in delivery of encampment response outreach and case management services in an amount not to exceed $1,163,614.34. This agreement is set to terminate on October 31, 2024. The Encampment Resolution Funding Program ("The Program") has allowed the City of Oxnard and the County of Ventura to cooperate on an effort to relocate people from the above-mentioned encampments and provide interim non-congregate shelter and case management services with subsequent transition to permanent supportive housing units that are actively under construction throughout the City of Oxnard. On November 7, 2023, the City Council also authorized staff to negotiate and execute agreements with local hotel operators between November 1, 2023 and August 30, 2024. To date we have expended approximately $3,248,000 of the State grant on The Program.

DISCUSSION

There are a number of permanent supportive housing projects recently completed, under construction, and planned for in Oxnard. The Encampment Resolution Funding Program was relying on the completion of two permanent supporting housing projects in Oxnard,(Central Terrace and Casa de Carmen) to transition individuals out of non-congregate shelters

into these units. Unfortunately the opening of the Casa de Carmen project has been delayed, creating a need to extend The Program to avoid exiting people out of the non-congregate shelter and returning them to unsheltered homelessness.

The Program launched in December 2023, and was anticipated to run about a year, which coincided with the opening of permanent supportive housing units. The Program provides non-congregate shelter, meals, and case management services for 60 individuals who have been relocated from specific encampment sites in Oxnard. The City is currently under agreement with several local hotel operators to provide non-congregate shelter and with the Ventura County Health Care Agency to provide meals and case management for the sheltered clients. Under Agreement No. 32400434, County of Ventura Health Care Agency staff works onsite with clients to develop housing plans, gather chronic homelessness documentation, connect clients to additional supportive services, and present clients for permanent supportive housing through the Ventura County Continuum of Care Coordinated Entry System presentation and matching process. This agreement also provides for a dedicated alcohol and drug treatment staff member for clients, and provision of two meals per day for each client. Health Care Agency staff also works to integrate the project with existing Health Care for the Homeless services and additional support that clients may be eligible for.

As of August 2024, 11 clients in The Program have been matched to a permanent supportive housing unit at Central Terrace. Over the next several months, Health Care Agency staff will continue working with clients to help them gain eligibility for permanent supportive housing placement, with the goal of matching additional clients to permanent supportive housing units within Central Terrace and the Casa de Carmen projects.

Casa de Carmen was originally scheduled to open in February 2024. That development has been delayed primarily due to a lengthy approval process from Southern California Edison (SCE) of the Project's underground utility plan. The SCE underground utility plan has now been approved and work necessary to complete the underground utility work has begun with an expected completion date of November 2024. Once this work is completed the Casa de Carmen development team will be able to resume work on the east elevation of the building and be able to provide the City with an updated completion schedule and date for when tenants may begin moving into the permanent supportive housing units.

To avoid exiting people out of the non-congregate shelter (local hotel rooms) and case management program and returning them to unsheltered homelessness, staff recommends that The Program continue until Casa de Carmen is completed and a tenant move-in date has been identified. At this time, there is only funding available within the State grant to fund the case management element of The Program through April 30, 2025, and the non-congregate shelter element of The Program through February 28, 2025. The extension of The Program through these dates requires extensions to various agreements.

1. Staff is seeking to amend Agreement No. 32400434 to extend the agreement through April 30, 2025, and to add $145,000 of Encampment Resolution Funding Program grant funds to the agreement. An extension of Agreement No. 32400434 through April 30, 2025 is set to be brought to the Ventura County Board of Supervisors for approval in September 2024. The draft Agreement provides for an administrative extension past April 30, 2025. However, there is currently no funding identified to continue the services April 30, 2025.
2. In addition, staff is seeking Council authority to authorize the City Manager, or designee, to negotiate and enter into agreements or extensions of existing agreements with hotel operators to offer non-congregate shelter through February 28, 2025, subject to review and approval by the City Attorney's office. There are currently enough Encampment Resolution Funding grant funds remaining to enter into these agreements through February 28, 2025.
3. As stated previously, on September 19, 2023, the City Council approved an agreement with LeSar Support Services (Agreement Number 32400182) to provide administrative services to aid the City of Oxnard to ensure compliance with the regulations and completion of reports due to the State of California. The agreement, as approved by the City Council, with LeSar Support Services authorizes Staff to extend the agreement. Staff intends to exercise its option to extend for a period of one-year. No additional grant funds will be needed or encumbered to this agreement with LeSar.

Staff anticipates that the Casa de Carmen development will not be completed by April 30, 2025, and it is expected that staff would again recommend that The Program continue beyond the date in which funding is available. Therefore, if funding can be identified, staff may return to Council prior to February 28, 2025 to request authorization to extend the agreements and appropriate a new funding source in support of The Program.

STRATEGIC PRIORITIES

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

There is no financial impact to the General Fund.

The City of Oxnard was awarded an Encampment Resolution Funding grant amount of $4,015,638.88. To date, $767,229 remain unencumbered. From the remaining and unencumbered Encampment Resolution Funding Program grant will be allocated as:

1. $145,000 will be allocated to an extension of Agreement No. 32400434 with Ventura County Health Care Agency to April 30, 2025
2. The remaining $622,229 will be appropriated to fund new, or extensions to existing, agreements with local hotel operators to offer non-congregate shelter.

These agreements and services will fully expend the Encampment Resolution Funding grant funds.

For Finance Use Only: 210-2108103-53200-G2416

COMMITTEE OUTCOME

This item did not originate in Committee because it is a continuation of an item previously approved by City Council.

Prepared by: Emilio Ramirez, Housing Director

ATTACHMENTS

1. Original Agreement
2. First Amendment to Agreement for Professional Services with Ventura County Health Care Agency

Second Amendment and Extension of the Agreement for the Encampment Resolution Program

Brenda Lopez, Interim Housing Director
Housing Department

City Council
February 18, 2025

CITY OF OXNARD CALIFORNIA

Background

1) On September 19, 2023, Council approved receipt of Encampment Resolution Funding grant of $4,015,638.88.
2) Funding to provide interim non-congregate shelter and case management services ("The Program") to people relocated from encampments located at McWane Boulevard and at Fifth Street, east of Harbor Boulevard.
3) The Program serves as a bridge program to permanent supportive housing at the Central Terrace and Casa de Carmen developments.
4) On November 7, 2023, City Council approved agreement (No. 32400434) with the County of Ventura for case management services through October 2024, and authorized staff to execute agreements with local hotel operators through August 2024.

Background

5) On September 17, 2024, City Council approved a First Amendment to the agreement (No. 32400434) with the County of Ventura for case management services through April 2025, and authorized staff to execute agreements with local hotel operators through February 2025.

6) All of the Encampment Resolution Funding grant has been encumbered.

7) Delays in completion of construction of the Casa de Carmen project have created a need to extend The Program to prevent clients from returning to unsheltered homelessness.

Funding Sources

The Program is awaiting the completion of the Casa De Carmen (end of August 2025) project to transition the remaining individuals into these units. Staff recommends awarding $875,000 from the Community Development Block Grant CARES Act (CDBG-CV) Program to continue services.

The CDBG-CV grant funds will be allocated as follows:

1. $250,000 will be allocated to an extension of Agreement No. 32400434 with Ventura County Health Care Agency to August 31, 2025.
2. The remaining $625,000 will be appropriated to fund new, or extensions to existing, agreements with local hotel operators to offer non-congregate shelter.

Recommendations

That the City Council:

1. Approve and authorize the Mayor to execute a Second Amendment to Agreement No. 32400434 with the County of Ventura for partnership in delivery of encampment response outreach and case management services via the Ventura County Health Care Agency in the amount of $250,000 for a total agreement amount not to exceed $1,558,614.34, and to extend the term of the agreement to August 31, 2025; and

2. Authorize the City Manager, or designee, to negotiate and execute agreements with local hotel operators through August 31, 2025 to offer non-congregate shelter.

End of Presentation

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. M.2

DATE: February 18, 2025

TO: City Council

FROM: Terrel Harrison, Cultural & Community Services Director, (805) 385-7994, terrel.harrison@oxnard.org

SUBJECT: Amendment to Extend the Operating Agreement for the Oxnard Performing Arts & Convention Center Auditorium and Meeting Rooms. (10 minutes)

RECOMMENDATION

That the City Council authorize the Mayor to execute the facility management agreement between the City and Sterling Venue Ventures (A-8209 and (A-8210) for:

1. A five (5) year amendment extension for the operation, maintenance, and management of the Oxnard Performing Arts and Convention Center Auditorium and Meeting Rooms.

(This item did not originate in Committee)
Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/n3SoEPOCKEw

BACKGROUND

The Oxnard Performing Arts and Convention Center ("PACC") was built in 1968. The PACC includes an auditorium with 1,604 seats and 8 additional meeting rooms. The auditorium and meeting rooms serve as a convenient venue for a wide range of cultural, educational, and entertainment events. Additionally, an enclosed patio offers space for community gatherings such as weddings, receptions, banquets, and more. The PACC provides approximately 500 on-site parking spaces and designated loading areas for event support.

The PACC previously operated in the red and depended on city subsidies for its operations, receiving:

- $1.6 million in FY 2017-18, and
- $1.3 million in FY 2018-19 from the General Fund and Measure O.

In 2019, when the City faced a $9.2 million budget shortfall, staff presented the City Council with the recommendation to temporarily close the PACC to save over $1 million annually in subsidies towards the facility until a solution could be developed. Instead, the City Council chose to fund keeping the facility open in the interim, and the City issued a request for proposals (RFP) in August 2019.

The City entered into a 6-month management agreement with the Oxnard Performing Arts Center (OPAC) Non-Profit Corporation from July 1 to December 31, 2019. This agreement tasked OPAC with managing on-site operations of the 114 events that were previously scheduled in the facility. The extension also provided for OPAC adequate termination notice to those who had events scheduled from January 1 through June 30, 2020. OPAC presented an operating budget for the six-month period of $635,801.50. During this time, OPAC was expected to retain all event revenues, which were estimated at $222,801.50. To support the budget, the City allocated a subsidy of up to $410,000 from Measure O. Any shortfall between the operational costs, estimated revenue, and Measure O subsidy was to be covered by OPAC.

Meanwhile, the City's RFP process resulted in three bidders responding to the competitive bidding process to contract operations of the facility. These included:

- VenueTech Management Group,
- Lazer Broadcasting, and
- the Oxnard Performing Arts Center Corporation/Sterling Venue Ventures.

The top-rated company, VenueTech, withdrew from the RFP process in November 2019, stating that their approach to successfully transform the PACC to a professional performing arts center required a commitment that the City was unable to make at that time. As VenueTech was the only lead operator that met the minimum qualifications, the City canceled the solicitation process on December 6, 2019.

The City then entered an additional 60-day extension to the agreement with OPAC.During this extension, OPAC operated the meeting rooms at the PACC Property and the auditorium was closed. The agreement between the City and OPAC, for operations of the meeting rooms terminated on February 29, 2020.

Facing the potential closure of the facility, the City negotiated a proposed agreement with Sterling Venue Ventures (SVV). In February 2020, the Oxnard City Council approved a five-year agreement with Sterling Venue Ventures (SVV) to manage the PACC. The agreement included an option for the Council to extend it for an additional five years. The current agreement with SVV is set to expire on March 1, 2025.

In addition to operating the PACC, SVV owns and/or manages three other entertainment venues: The Canyon Agoura Hills, The Canyon Redondo Beach, and The Saban Theatre in Beverly Hills.). SVV's owner, Lance Sterling, also serves as the Chief Entertainment Officer for the Dolby Theatre in Hollywood. With over 25 years in the industry, SVV collaborates with talent agencies and local promoters to produce more than 1,000 concerts annually across Southern California.

The City currently has a two-part agreement with SVV—one for the Auditorium and one for the Meeting Rooms. Each agreement requires SVV to provide all programming and the associated staffing, food services, catering, concessions and merchandising; managing the PACC master calendar; coordinating event production needs of all PACC clients; negotiating talent contracts; and developing and implementing marketing plans. The current agreement terminates on March 1, 2025.

Additionally, the Meeting Rooms agreement option includes SVV managing the PACC rooms in coordination with the Oxnard Performing Arts CenterCorporation (OPAC) non-profit. To meet this section in the agreement, SVV offered a side letter agreement to OPAC, where OPAC currently receives 50% of the meeting room fees of contracts they negotiate, with the City receiving the other 50%. SVV oversees the management of these operations on behalf of the City, with their business covering the insurance, liability and business/liquor license for the facility.

About Sterling Venue Ventures: A Company profile is provided by SVV as Attachment 3 to this report
Lance Sterling has been a key figure in the music industry since 1982, and his company, Sterling Venue Ventures (SVV), has played a major role in the evolution of live music entertainment for over 25 years. SVV is the largest concert promoter in Southern California, having produced 1,757 concerts in the past two years, generating over $16 million in ticket sales. The company owns and operates several venues, including The Canyon Agoura Hills, The Canyon Montclair, and The Saban Theatre in Beverly Hills, and has presented concerts at numerous other venues. SVV is known for hosting a wide range of national touring acts, from Foo Fighters and Styx to Smokey Robinson and 311, and for nurturing emerging talent like Brad Paisley, Imagine Dragons, and Panic! At The Disco. Additionally, Sterling has recently been appointed Chief Entertainment Officer for the Dolby Theatre in Hollywood and is in talks to open a new 3,500-seat venue in New Jersey. SVV also owns Sterling Steak & Lounge in Park City, UT. With a team of industry professionals, the company has a significant online and social media presence, reaching hundreds of thousands of people each month and bringing live music to communities across the region.

Overview of the Organization Including Legal Structure, Principal Officers & Organization Structure
Sterling Venue Ventures is a single entity, Limited Liability Corporation. The LLC's manager is Lance C Sterling. SVV

Tax ID: 95-4810799

Attachment 3 to this report contains information on Sterling Venue Ventures as an organization, including profiles of key personnel, history of the organization's, facility management experience, marketing and outreach, industry and city government relationships, and future goals.

DISCUSSION

Current Agreement
SVV's agreement with the City includes revenue goals to help the PACC remain self-sustaining, covering basic utilities and maintenance. Any revenue exceeding City expenses is directed to the PACC Fund Balance, which will fund capital improvements for the 56-year-old facility.
The agreements include the option for the City Council to extend the contract with SVV for an additional five years. These agreements will expire on March 1, 2025.

The agreed revenue goals for SVV included:

- Auditorium: Hosting 52 events annually, yielding $143,000 from event fees to the City.
- Concessions: Contributing 15% of all concession sales, with a minimum goal of $15,000 per year.
- Meeting Rooms: Hosting 52 events annually, providing $90,000 in revenue to the City.

Under the agreement, SVV manages the PACC auditorium, while the non-profit Oxnard Performing Arts Center Corporation (OPAC) had a side letter agreement with SVV for the use of the community meeting rooms. Rental revenue generated from these rooms, when contracted through OPAC, is shared 50/50 between the City and the non-profit.

SVV Accomplishments
Despite signing a 5-year agreement a month before a nationwide U.S. shutdown in response to the pandemic, SVV has demonstrated remarkable resilience and expertise.

In the first year, while the facility was closed due to pandemic restrictions, SVV updated lighting and décor in the auditorium. In the second year (FY 21-22), as local entertainment venues throughout the U.S. saw a cautious return of events, SVV's operation of the PACC reached 77.45% of their revenue target as performances slowly resumed.

In the third year (FY 22-23), with strong community support and the removal of all pandemic restrictions, SVV exceeded revenue targets, finishing at 105.42% and adding a $13,438.14 surplus to the PACC Fund Balance.

Last year, SVV again exceeded targets, reaching 159.13% of target revenue and adding $146,642.60 to the PACC Fund Balance. Now in the final year of the agreement (FY 24-25), SVV is on track to surpass last year's revenue.

Oxnard Performing Arts and Convention Center Revenue Summary (by FY)			
Fiscal Year	**Target Revenue**	**Collected**	**Target**
20-21	COVID YEAR	COVID YEAR	- -
21-22 (partial COVID Year)	$248,000	$192,081.78	-$55,918.22
22-23	$248,000	$261,438.14	+$13,438.14
23-24	$248,000	$394,642.60	+$146,642.60

Operational Challenges
Attached to the staff report is a staff memo to the City Manager on October 31, 2024, detailing PACC operational concerns, primarily involving the OPAC nonprofit. The memo highlights a pattern of unauthorized activities, deceptive communication, safety and liability concerns, and financial disputes caused by staff members of the non-profit. (Attachment #2.)

Despite numerous meetings between SVV, OPAC, and City staff, as documented in the memo, both parties have failed to sign a new side letter agreement to resolve ongoing conflicts. The original side letter agreement, signed on December 9, 2021, by SVV owner Lance Sterling and then-OPAC Board President Gary Blum, was terminated by SVV on March 9, 2024. The termination was due to OPAC's failure to adhere to the agreement, its staff member's lack of transparency and accountability, and noncompliance with safety protocols.

As a result of the issues outlined in the staff memo, the City Manager decided not to pursue negotiations for a new contract between the City and OPAC to manage the PACC meeting rooms, in response to a proposal submitted by OPAC on September 9, 2024. (Attachment #4.)

City staff met individually with members of the previous City Council to provide updates related to PACC operations involving SVV and OPAC. A staff report recommending the approval of a five-year extension of the contract with SVV was prepared and published for the December 3, 2024, City Council meeting. However, at the request of Mayor-elect Mc Arthur, staff withdrew the agenda item to provide the four newly elected Council members the time to learn more about this matter.

Since then, lobbying efforts by members of both parties have taken place. Following the installation of the new City Council members, staff also briefed individual newly elected officials about PACC operations.

Side Letter Agreement Updates

At Mayor Mc Arthur's request, staff coordinated meetings with SVV and OPAC on December 16 and December 18, 2024, in an attempt to facilitate a new side letter agreement between the two parties.

On January 8, 2025, representatives from the OPAC board, SVV staff, and City staff convened to explore the possibility of a side letter agreement between OPAC and SVV. There were three points of contention between the parties, two of which SVV was willing to make concessions on. These items are:

1. Liquor License

   OPAC wishes to explore the possibility of their group independently holding its own liquor license. SVV is amenable to this as long as the Alcoholic Beverage Control (ABC) allows two separate licenses at the property, and where violations by one group would not jeopardize the other's license.

2. Security

   OPAC wishes to have the authority to hire its own security for events versus having to use SVV for all security needs. SVV is amenable to this as long as they have the ability to interview any security companies to ensure they comply with the conditions placed on the property, especially as it is related to the liquor license, in which SVV is solely responsible for at this time.

   Additionally, all security companies hired must be properly licensed and bonded to ensure compliance with industry standards and legal requirements.

3. Booking Rights & Revenue Distribution

   OPAC wants exclusive control over the meeting rooms, requiring SVV to pay OPAC for the use of the conference rooms. However, SVV did not agree to this item at the meeting, as they frequently need to book the venue as a complete convention center, which includes the auditorium and additional breakout rooms for their events.

   SVV prefers to maintain the current practice, where each party retains 50% of the revenue for any event booked by either SVV or OPAC. OPAC was scheduled to hold a board meeting on Wednesday, January 15, 2025, to further discuss these issues.

Following the OPAC Board Meeting, on January 16, 2025, the nonprofit submitted a request directly to the Mayor and Council Members that the Oxnard City Council approve a new operating agreement contract between the City and OPAC, effective March 1, 2025, that would allow the OPAC board to manage and operate 2 ballrooms and 5 meeting rooms; request the City to acquire two separate addresses for the Auditorium/Theater and Ballrooms/Meeting Rooms; that the City provide OPAC with exclusive use of the box office on the ballroom/meeting room side, and allow shared access between OPAC and SVV to the marquee and display cases, parking lot and courtyard.

Staff Recommendation to Council
Staff recommends that the City Council authorize the Mayor to execute the facility management agreement between the City and Sterling Venue Ventures for:

1. A five (5) year amendment extension for the operation, maintenance, and management of the Oxnard Performing Arts and Convention Center Auditorium and Meeting Rooms.

Summary of Proposed Amended and Restated Agreement for Operations of the Auditorium and Meeting Rooms

Per the City's agreement with SVV, the City Council has the option to extend the lease of the Oxnard Performing Arts and Convention Center Auditorium (PACC Auditorium) for a five (5) year term. The proposed updates to the terms of the Lease Agreement are as follows:

Consolidation of Agreement: Based on SVV's successful management and operations of the PACC facility, the City recommends consolidating the 2-parts of the agreement into one amended and restated agreement for both the Auditorium and Meeting Rooms.

Term of Agreement:

- SVV shall exclusively operate the Oxnard Performing Arts Center Auditorium("PACC AUDITORIUM"), as depicted in "Exhibit A," attached hereto and incorporated by this reference, from March 1, 2025 until March 1, 2030.
- SVV may, in its sole discretion, operate the Oxnard Performing Arts Center Rooms ("PACC ROOMS"), as depicted in "Exhibit B," attached hereto and incorporated by this reference, in coordination with the Oxnard Performing Arts Center Corporation Board of Directors, from March 1, 2020, until March 1, 2030". This change allows SVV as an operator to address any issues that may arise which may impact its insurance liability and licenses.

Utilities: CITY shall pay ongoing utility expenses, including water, sewer, trash, gas and electricity (collectively, the "Utilities Expenses") at the PACC PROPERTY. However, SVV shall pay any Utilities Expenses in excess of $125,454 in FY 25-26; $129,217.62 in FY 26-27; $133,094.10 in FY 27-28; $137.087 in FY 28-29; and $141,199.59 in FY 29-30.

Please see additional details for this in the "Financial Impact" section of the staff report.

Utilities Progress for the next 5 years	
Fiscal Year	**Utilities Limits**
FY 25-26	$125,454.00
FY 26-27	$129,217.62
FY 27-28	$133,094.15
FY 28-29	$137,086.98
FY29-30	$141,199.59

Maintenance: SVV shall be responsible for all aspects of the maintenance at the PACC PROPERTY, as depicted in "Exhibit C" of this agreement, including but not limited to grounds of maintenance, janitorial services, and alarm monitoring services during all times the PACC Auditorium and/or the PACC ROOMS are not in use. That Sterling Venue Ventures shall and may perform any facility repair for up to $5,000 within the areas depicted in "Exhibit A" and "Exhibit B". SVV shall ensure the facility exterior is adequately maintained prior to scheduled EVENTS, including CITY EVENTS.

As noted in the agreement section 3.18, the City is responsible for all Capital Replacement and Capital Improvements at the PACC Property.

Permits. CITY represents and warrants that all permits required for the operation of the PACC Property are in place and active, except SVV acknowledges that it obtained an Alcoholic Beverage Control ("ABC") License for alcoholic beverage sales and consumption on the PACC Property, which is valid and effective from September 9, 2020 through August 31, 2025."

Alternatives for the Future of PACC Operations
Other options for consideration could potentially include:

1. **Extend the contract with SVV for 24 months and issue a fresh RFP**
   This would provide continuity of operations while the City issues a new Request for Proposals (RFP).

2. **End the contract with SVV on March 1, 2025 and issue a fresh RFP**
   This approach would create uncertainty within the community about future event bookings at the PACC. If this option is chosen, the PACC would be dark until a new operator is contracted.

3. **Establish a separate agreement with OPAC**
   While this is an option, it's not feasible for sustainable operations of the facility. Theater operations also require access to the kitchen facilities located in the meeting rooms to maintain their alcohol license. Additionally, the theater operator needs the flexibility to book conventions and other events that require using the meeting rooms as breakout areas.

STRATEGIC PRIORITIES

This agenda item supports Economic Development strategy. The purpose of Economic Development strategy is to focus on the retention and expansion of Oxnard businesses by increasing the skills and employability of our local workforce, invite new business investments, and target site-based redevelopment opportunities.

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

This agenda item supports the Quality of Life strategy. The purpose of the Quality of Life strategy is to restore and increase quality services and programs that enrich Oxnard's diverse community, promotes safe neighborhoods, encourages community engagement, and supports our residents in their efforts to improve their quality of life.

FINANCIAL IMPACT

Facilities Maintenance & Utilities Budget

The City's budget process beginning in FY 25-26 will need to accommodate an increase in facility maintenance and utilities from $128,000 ($121,800 for utilities + $6,200 for ground maintenance outside "Exhibit C") to $131,840, a 3% year by year increase. Therefore, increases are to follow in the subsequent years: FY 26-27 to $135,795.20; FY 27-28 to $139,869.06, FY 28-29 to $144,065.14 and FY 29-30 to $148,387.09.

The management and operations agreement with SVV caps the City's utility costs to the amounts listed in the table below by fiscal year; any utilities billed to the City above these amounts will be the responsibility of SVV.

Utilities Budget Progression for the Next 5 Years	
Fiscal Year	**Utilities Limits**

FY 25-26	$125,454.00
FY 26-27	$129,217.62
FY 27-28	$133,094.15
FY 28-29	$137,087.00
FY 29-30	$141,199.59

Revenue Projections for Meeting Room Rentals

The revenue projections are to follow the same incremental increases of 3% per year. For the rentals of the meeting rooms, revenue targets are expected to meet $92,700 for FY 25-26, $95,481 for FY 26-27, $98,345.43 for FY 27-28, $101,295.80 for FY 28-29 and $104,334.67 for FY 29-30.

Revenue Projections for Auditorium Rentals

The revenue projections for the rentals of the auditorium are now expected to meet $147,290 for FY 25-26, $151,708.70 for FY 26-27, $156,259.96 for FY 27-28, $160,947.76 for FY 28-29 and $165,776.19 for FY 29-30. Revenue return for the auditorium remains at $2,750/event.

Revenue Projections for Concessions

In addition, the City will receive 15% of the concession sales, in which targets are also expected to increase at a rate of 3% per year. Concession revenues are now expected to meet $15,450 for FY 25-26, $15,913.50 for FY 26-27, $16,390.91 for FY 27-28, $16,882.64 for FY 28-29 and $17,389.11 for FY 29-30.

Anticipated Revenue: All Categories

Revenue Targets for the Oxnard Performing Arts and Convention Center				
Fiscal Year	**Rooms**	**Auditorium**	**Concessions**	**Total Target Revenue**
25-26	$92,700.00	$147,290.00	$15,450.00	$255,440.00
26-27	$95,481.00	$151,708.70	$15,913.50	$263,103.20
27-28	$98,345.43	$156,259.96	$16,390.91	$270,996.30
28-29	$101,295.80	$160,947.76	$16,882.64	$279,126.20
29-30	$104,334.68	$165,776.19	$17,389.11	$287,499.97

SVV anticipates an increase in programming over time, reaching 104 events per year in the auditorium. The City can expect to see an increase in annual rental revenue associated with the auditorium to be $297,440 (104 events x $2,750/event), and concession sales increasing to approximately $30,900 annually. Combining this with the rental revenue for the meeting spaces would potentially equal approximately $433,000 annually.

In FY 23-24 the City invested $1,525,442 in the PACC Roof Replacement project. Any revenues exceeding the City expenditures will be kept in the PACC Fund Balance to address future PACC improvement needs.

	FY 25-26	FY 26-27	FY 27-28	FY 28-29	FY 29-30
Projected Rental of Auditorium & Concessions	$162,670	$167,622.20	$172,650.87	$177,830.40	$188,165.30

Projected Rental of Meeting Rooms	$92,700	$95,481	$98,345.43	$101,295.80	$104,334.67
Projected Annual Revenues	**$255,440**	**$263,103.20**	**$270,996.30**	**$279,126.20**	**$287,499.97**
Estimated Utilities Cost	$125,454	$129,217.62	$133,094.15	$137,086.98	$141,199.59
Landscaping Streetside	$6,386	$6,577.58	$6,774.91	$6,978.16	$7,187.50
Maintenance	$123,600	$127,308	$131,127.24	$135,061.06	$139,112.89
Estimated City Costs	**$255,440**	**$263,103.20**	**$270,996.30**	**$279,126.20**	**$287,499.97**

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Julie Estrada, Management Analyst

ATTACHMENTS

1. Amendment to Extend the Operating Agreement for the Oxnard Performing Arts and Convention Center Presentation
2. PACC Agreement Memo 10.31.24
3. Sterling Venue Ventures Update
4. OPAC Proposal Sept. 2024
5. A-8209 Agreement for Operations of the OPACC Auditorium
6. A-8210 Agreement for Operations of the OPACC Rooms
7. First Amendment to Sterling Agreements with Exhibits 2.6.25

Amendment to Extend the Operating Agreement for the Oxnard Performing Arts & Convention Center (PACC) Auditorium and Meeting Rooms

City Council
By: Terrel Harrison, Cultural & Community Services Director
February 18, 2025

CITY OF OXNARD CALIFORNIA

Recommendation

That the City Council authorize the Mayor to execute the facility management agreement between the City and Sterling Venue Ventures for:

1. A five (5) year amendment extension for the operation, maintenance, and management of the Oxnard Performing Arts and Convention Center Auditorium and Meeting Rooms.

Background

Overview of Oxnard Performing Arts and Convention Center (PACC)

Established in 1968

1,604-seat auditorium

8 meeting rooms

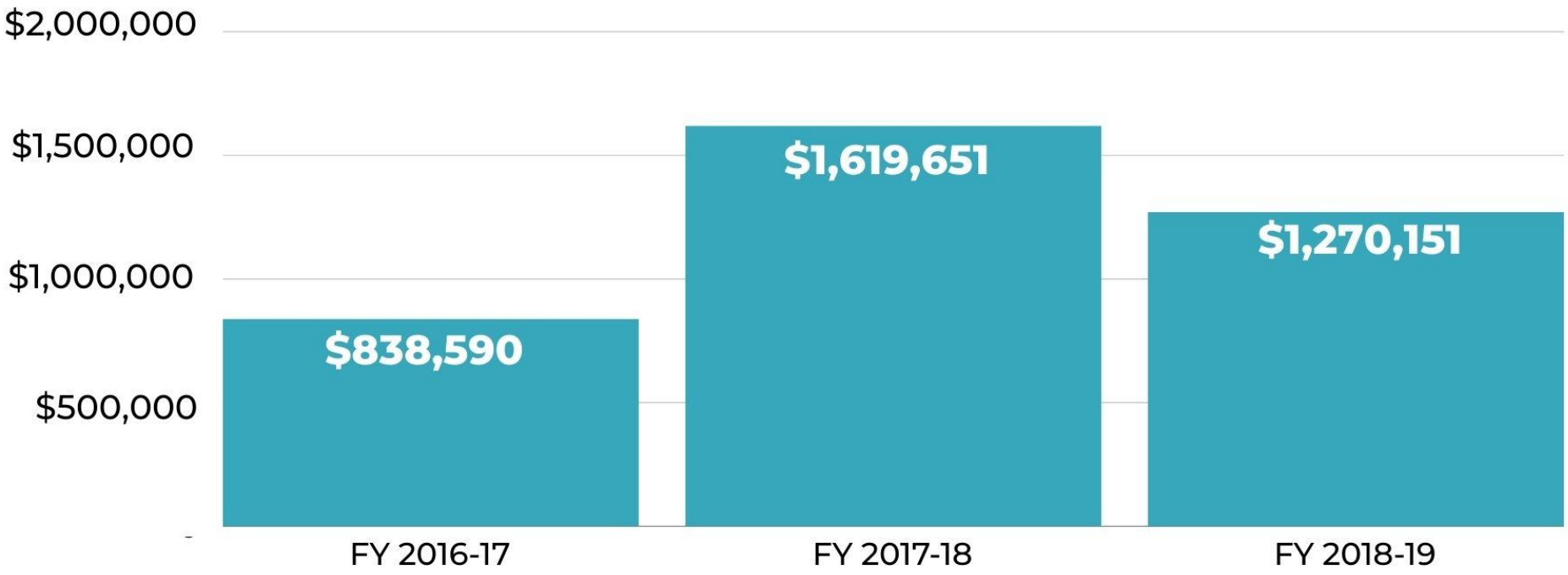
Hosts a variety of cultural, educational, and entertainment events

Community space: Patio for weddings, receptions, and banquets

500 on-site spaces and designated loading areas for events

Background

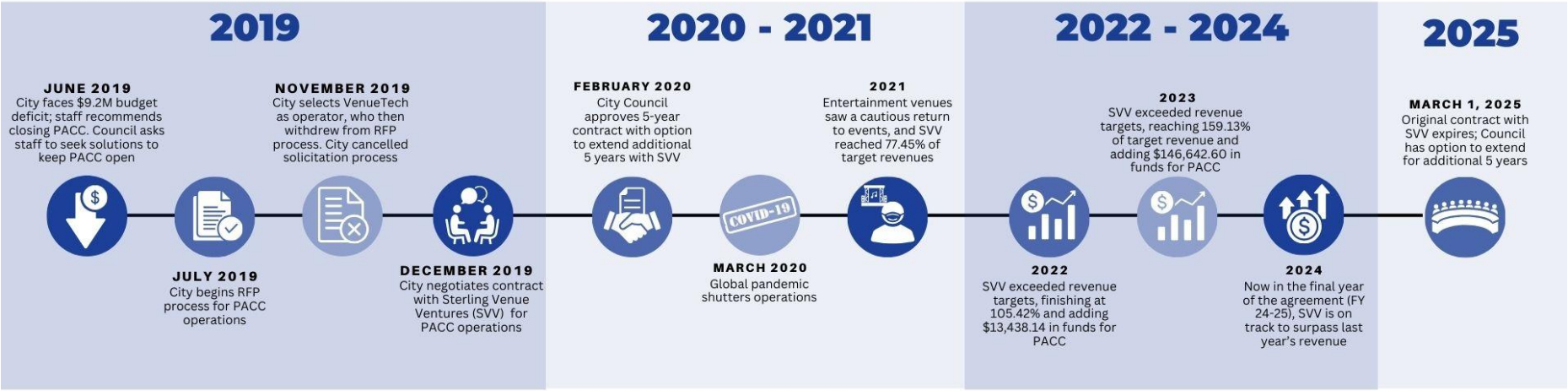
City Subsidies* Towards PACC Prior to the Pandemic



**Total subsidy includes funding from both the General Fund and Measure O*

Background

PACC Pre- and Post- Pandemic Timeline



Background

Sterling Venues Ventures (SVV)

Sterling Venue Ventures (SVV) owns and/or operates regional entertainment venues, including:

- The Canyon Agoura Hills
- The Canyon Redondo Beach
- The Saban Theatre in Beverly Hills

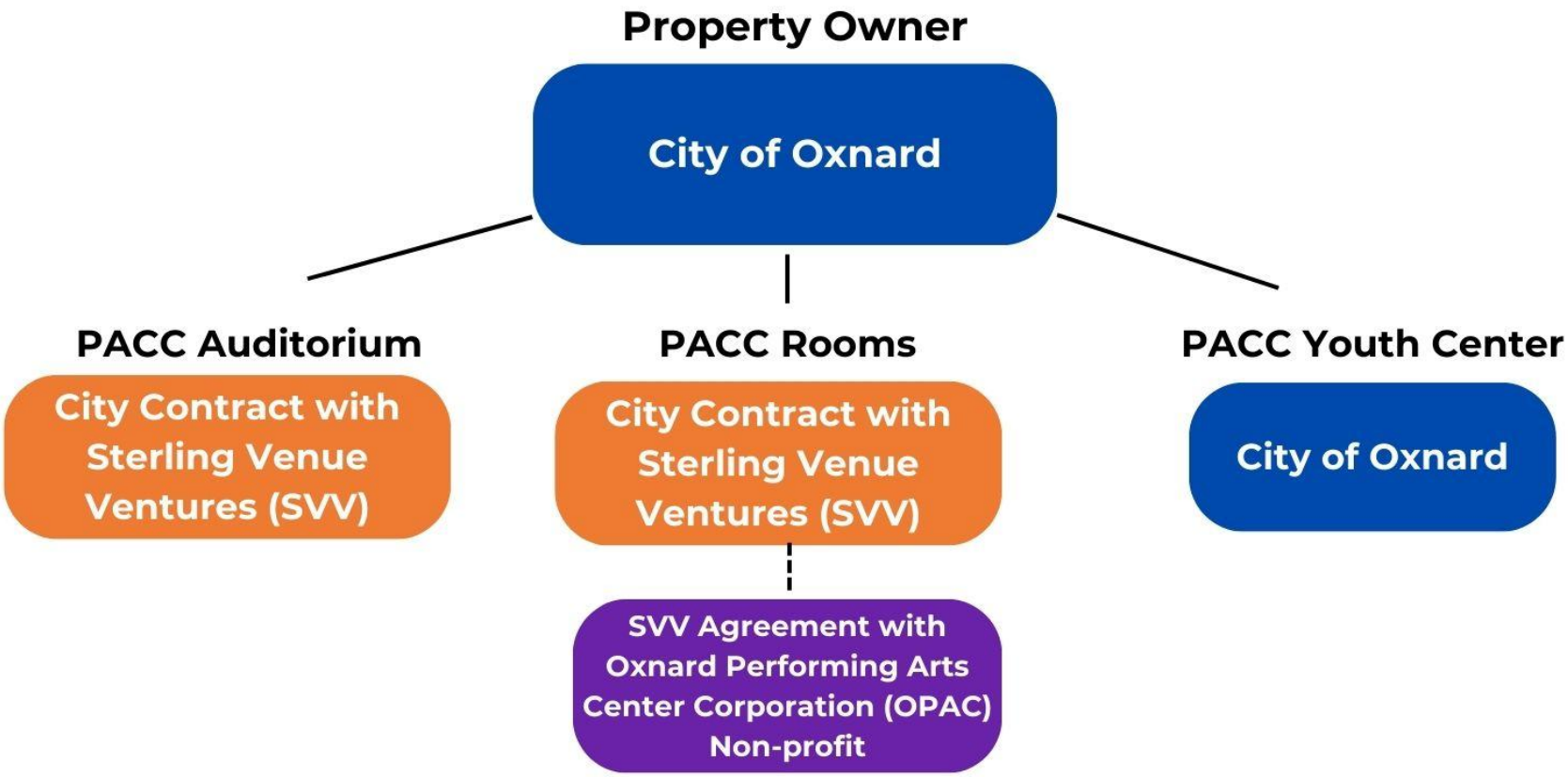
25+ years of experience working in conjunction with major talent agencies and local promoters

Lance Sterling: Chief Entertainment Officer for the Dolby Theater in Hollywood

Background

Oxnard Performing Arts and Convention Center (PACC)

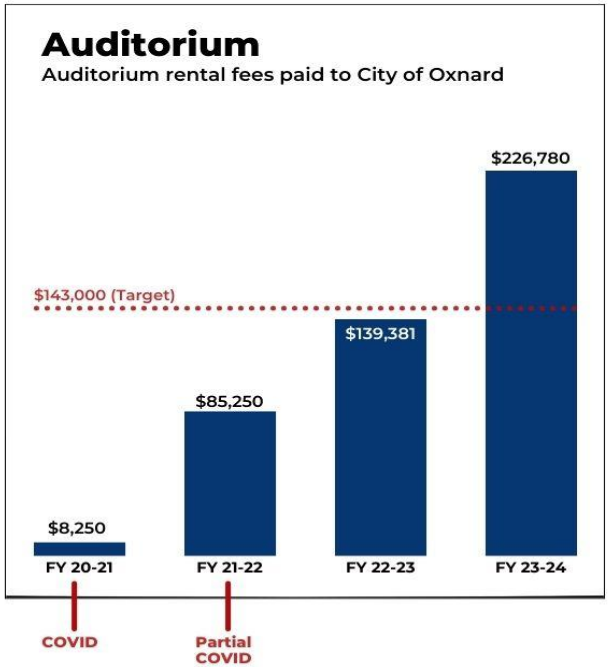
Current Operations and Management Structure

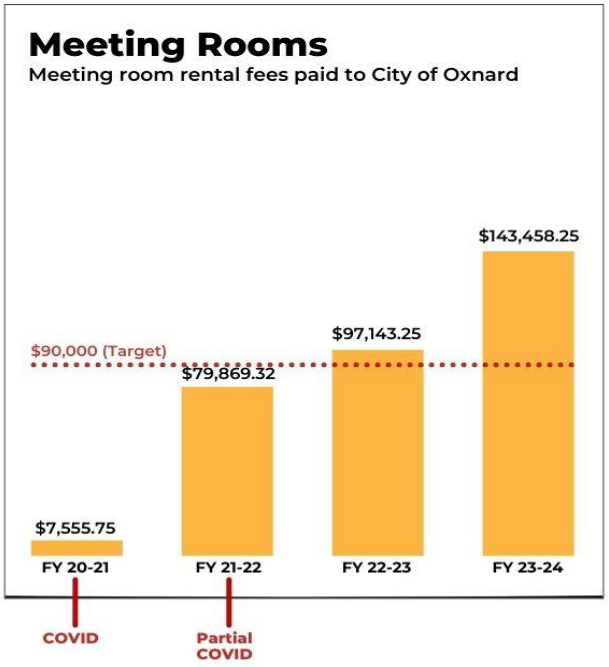


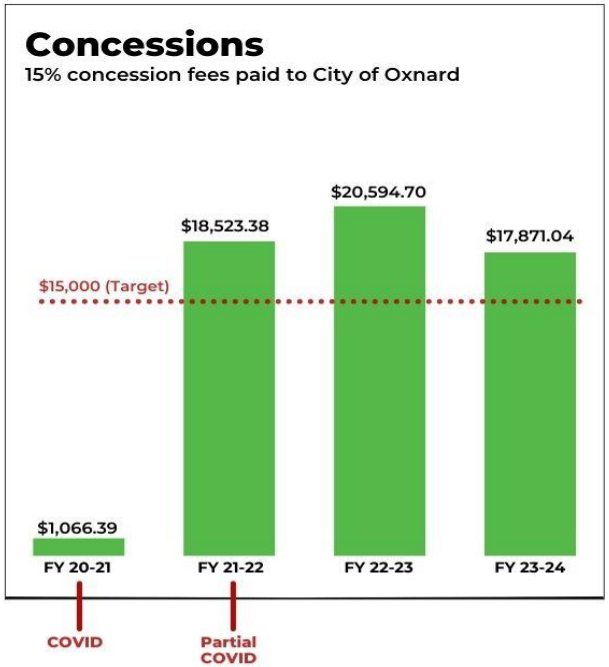
Discussion

PACC Operations - Revenue Goals

Following two years of pandemic closures, Sterling Venue Ventures (SVV) had met and exceeded the revenue goals







Discussion

Proposed Amended and Restated Agreement for Operations of the Auditorium and Meeting Rooms (March 2025 – 2030)

Based on SVV's successful management and operations of the PACC facility, the City recommends consolidating the 2-parts of the agreement into one amended and restated agreement for both the Auditorium and Meeting Rooms.

- Term extension: 5-year renewal option for the PACC Property (March 1, 2025 – March 1, 2030).

Discussion

Proposed Amended and Restated Agreement for Operations of the Auditorium and Meeting Rooms (March 2025 – 2030), *cont'd.*

- Utilities: City to pay utility costs up to
  - FY26 $125,454.00
  - FY27 $129,217.62
  - FY28 $133,094.15
  - FY29 $137,086.98
  - FY30 $141,199.59
  - SVV to pay excess costs beyond set thresholds.

- Maintenance: SVV responsible for general maintenance and upkeep within the designated areas. SVV may complete any facility repairs up to $5,000.

As noted in the agreement section 3.18, the City is responsible for all Capital Replacement and Capital Improvements at the PACC Property.

Discussion

Proposed Amended and Restated Agreement for Operations of the Auditorium and Meeting Rooms (March 2025 – 2030), *cont'd.*

- Permits: CITY represents and warrants that all permits required for the operation of the PACC Property are in place and active, except SVV acknowledges that it obtained an Alcoholic Beverage Control ("ABC") License for alcoholic beverage sales and consumption on the PACC Property, which is valid and effective from September 9, 2020 through August 31, 2025."

Discussion

Alternatives for the Future of PACC Operations

Other options for consideration could potentially include:

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3. **Establish a separate agreement with OPAC**

   While this is an option, it's not feasible for sustainable operations of the facility. Theater operations also require access to the kitchen facilities located in the meeting rooms to maintain their alcohol license. Additionally, the theater operator needs the flexibility to book conventions and other events that require using the meeting rooms as breakout areas.

Financial Impact

Facilities Maintenance & Utilities Budget

- The City's budget process beginning in FY 25-26 will need to accommodate an increase in facility maintenance and utilities from $128,000 ($121,800 for utilities + $6,200 for ground maintenance outside "Exhibit B") to $131,840, a 3% year by year increase.
- Therefore, increases are to follow in the subsequent years:
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  - FY 29-30 to $148,387.09

Financial Impact

The revenue projections are to follow the same incremental increases of 3% per year.

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Recommendation

That the City Council authorize the Mayor to execute the facility management agreement between the City and Sterling Venue Ventures for:

1. A five (5) year amendment extension for the operation, maintenance, and management of the Oxnard Performing Arts and Convention Center Auditorium and Meeting Rooms.

CITY OF
OXNARD
CALIFORNIA

QUESTIONS?

MEMO

October 31, 2024

TO: Terrel Harrison, Cultural & Community Services Director

FROM: Julie Estrada, Management Analyst - Cultural Arts

Subject: Review of the Oxnard Performing Arts & Convention Center Agreement

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In 2019, when the City faced a $9.2 million budget shortfall, staff presented the City Council with the option to close the Oxnard Performing Arts and Convention Center (PACC) to save over $1 million annually in subsidies towards the facility. The City Council countered by agreeing to a 6-month closure of the PACC in order for staff to determine a way to keep it open.

After a competitive bidding process, the City Council approved a five-year management contract with Sterling Venue Ventures (SVV) in February 2020 to operate the Oxnard Performing Arts & Convention Center (PACC). The contract with SVV expires in March 2025, with an option to extend for five more years.

For the first two years of the contract period the agreement was not fully in effect due to the COVID-19 Pandemic. Despite pandemic closures, SVV has met and exceeded contractual goals for auditorium, meeting room, and concession fees, helping maintain the PACC and fund necessary capital improvements. These include a new roof for the Oxnard and Ventura Rooms (2022) and floor repairs in the Ventura Room (2024).

SVV operates the PACC in coordination with the Oxnard Performing Arts Center Corporation (OPAC), a non-profit. However, several issues have arisen between SVV and OPAC, which are summarized below.

Concerns Regarding Sterling Venue Ventures (SVV)

2020 - 2024 Professional Demeanor

- In meetings with SVV, City staff have noticed that SVV employees are very direct in their speech and communications. This may come across to some as brash.

2/1/23 Equipment Use Dispute

- OPAC raised concerns about SVV's use of OPAC equipment. SVV committed to using its own equipment first and ensuring any room rentals

are properly arranged. No equipment issues have been reported since the meeting between SVV and OPAC on February 1, 2023.

7/9/24 Cannabis Event

(Attachment 1 - Email Correspondence between City staff and a cannabis vendor)

- City staff were made aware of an SVV event with a cannabis client who wished to distribute products. SVV complied with the City's instructions to cancel an event involving a cannabis company once the issue was flagged.

Concerns Regarding the Oxnard Performing Arts Center Corporation (OPAC) Non-Profit

12/9/21 Side Letter Agreement

(Attachment 2 - Copy of the agreement dated 12/9/21 that identified areas for clarification and resolution signed by SVV owner Lance Sterling and OPAC Board President Gary Blum)

- As noted below, the agreement is between SVV and the OPAC. However, city intervention was requested at this time to develop an agreement that would satisfy the City's contract with SVV. The meetings continued due to issues that arose over recent years.

- SVV operates the PACC in coordination with OPAC to use the Oxnard Performing Arts Center Community (PACC) rooms under a side letter agreement signed by SVV owner Lance Sterling and OPAC Board President Gary Blum.

- The agreement required OPAC to report maintenance issues to SVV and seek approval for concerts exceeding 300 attendees to ensure compliance with licenses, fees, and liability insurance.

- However, OPAC has repeatedly violated the agreement, including hosting unauthorized events that served alcohol and failing to pay for room rentals from 2020-2023, the details of which are included below and supported by the accompanying attachments.

10/21/22 Unauthorized Lock Changes & Alarm Installation

(Attachment 3 - Letter from City Attorney's Office to executive director Carolyn Mullin requesting copies of keys, access codes and to abide by the national flag protocol)

- OPAC changed locks and installed alarms in the PACC without informing City staff (property owner) or SVV, prompting the City Attorney to issue a letter to OPAC executive director Carolyn Mullin in order to retrieve the venue's keys and security codes.

11/5/22 <u>Unauthorized Alcohol Use at Events</u>

- Staff for SVV were present at the OPAC Dia de los Muertos event and witnessed an OPAC vendor serving alcohol in the Courtyard of the PACC without a permit, risking SVV's liquor license. The SVV staff put a stop to this and SVV brought this to a discussion at the next routine meeting with SVV, OPAC, City Staff in January 2023.

3/31/23 <u>Unauthorized Concerts & Alcohol Consumption by Minors</u>

(Attachment 4 - Screenshot of text message from SVV employee Richard Bellhoff sharing photos of beer cans and trash left in the PACC courtyard)

- Two unauthorized concerts were held by OPAC, resulting in a security incident, injury, and an insurance claim. Alcohol was served without proper permits. Attachment 4 contains photos from that event.

- This item was addressed at the routine meeting with SVV, OPAC, and City staff on May 10, 2023. While the OPAC stated they did not know about any injuries the solution was to not allow any rock concerts in the meeting rooms.

- There is a dispute from OPAC that no injuries occurred at the OPAC event March 31, 2023, and it could possibly be the concert on April 7, 2023. However, SVV states the insurance claim made against them was for an incident on March 31, 2023.

4/6/23 <u>Unauthorized Use of a City-operated Room</u>

(Attachment 5 - Email sent by Director Terrel Harrison to Carolyn Mullin and Gary Blum regarding unauthorized use of City property)

- The City operates the PACC Youth Center, which is only to be used by city staff. The Youth Center room experienced flood damage in December 2020 and was closed for repairs. No one was to enter the room due to the asbestos in the damaged floors. City staff later determined that the OPAC staff was entering and using the space without the city's authorization.

- Attached are social media posts that OPAC made to its Facebook account on March 28, 2023, showing that OPAC made a large, multi-panel art exhibit.

- On April 6, 2023, City staff entered the Youth Center and discovered that the room - which was damaged and closed for repairs - was actively being used *without permission* for painting and storing a large, multi-panel art exhibit (which city staff later identified was featured on the OPAC Facebook page).

- Attachment 5 contains an email sent by Director Terrel Harrison to Carolyn Mullin and Gary Blum regarding OPAC staff entering City property without authorization and a summary reminder of the areas that are only used by City employees and not PACC lessees.

4/18/23 <u>Deceptive Communications</u>

(Attachment 6 - Includes three pages of communications between OPAC executive director Carolyn Mullin and City staff trying to clarify details between OPAC coordinating clean ups in unauthorized areas)

- OPAC Executive Director Carolyn Mullin was found to have misled City staff regarding unauthorized cleanup operations at the PACC.

- Attachment 6 is a summary report of the incident in April 2023, where Carolyn Mullin from OPAC contacted resident Marvin Boos for a cleanup at the PACC. The City's contract and the side letter agreement with SVV confirms that all maintenance issues are to be authorized by SVV. This issue escalated when Mr. Boos contacted Mayor Zaragoza to complain about being denied access to the PACC for a cleanup.

- OPAC initially denied contacting Mr. Boos to conduct this clean up. However, when staff called OPAC for a second time, Ms. Mullin admitted to leaving a message to Mr. Boos but not speaking with the resident.

5/11/23 <u>Failure to Pay Rental Fees</u>

(Attachment 7 - Includes two pages of communications between OPAC executive director Carolyn Mullin, SVV general manager Richard Belloff and City staff trying to clarify details between OPAC rental events that did not collect fees)

- In addressing the reported issues listed above relating to operating events without proper permits and security, SVV recognized that OPAC never

submitted rental fees for what OPAC considered “OPAC Events” and not rentals. Attachment 7 is an email from Carolyn Mullin acknowledging such an event.

- SVV began to further examine OPAC’s rental reports and started documenting events that SVV was aware of that had occurred, yet they were not included in OPAC’s fee payments that SVV must pay to the City.

11/17/23 <u>Failure to Pay Rental Fees</u>

(Attachments 8 and 9 - A letter from the City Attorney’s Office to SVV demanding payment for unpaid rental fees and a Letter from SVV’s Attorney to OPAC stating noncompliance with OPAC’s accounting for events and failure to comply with financial obligations. Attachment 10 - Documentation of the payment and deposit into the City’s account of the unpaid rental fees that SVV recovered in March 2024)

- OPAC is required to pay 50% of the fees from the use of the PACC Rooms to SVV, who remits payment to the City per its contract. These rates are non-negotiable.

- However, SVV discovered that OPAC failed to pay rental fees for several years, breaching the contract. In November 2023, the City Attorney demanded payment from SVV for the unpaid rent.

- SVV's attorney then notified OPAC of their breach and set a deadline of December 11, 2023, for the submission of the necessary documents to resolve the issue. The City received the payment of $34,267.50 in back fees from OPAC (paid through SVV) in February 2024.

2/28/24 <u>Security</u>

- At a routine meeting with city staff, SVV, and OPAC there was a discussion surrounding event consistency and safety such as the injury at the concert on 3/31/23. A verbal agreement was made by SVV and OPAC that all events were to use SVV’s security services.

3/19/24 <u>Termination of Original Side Letter Agreement</u>

(Attachment 11 - A copy of the revised Side Letter agreement that SVV presented to OPAC to address the issues previously documented in this memo.)

- SVV terminated the original side letter due to the issues noted above and presented OPAC with a revised agreement.

- OPAC had concerns regarding the items listed in the new agreement. SVV agreed to make adjustments to address concerns and provide clarity.

3/27/24 <u>Failure to Sign Revised Side Letter Agreement</u>

(Attachment 12- A copy of the redlined edits to the revised Side Letter agreement following a meeting between City Staff, SVV and OPAC, which all parties verbally agreed to.)

- City staff organized a routine meeting with SVV and OPAC to review the side letter agreement and facilitate an understanding between the parties. During the meeting, both sides agreed verbally to the proposed changes to the revised agreement. City staff believed that a final agreement had been reached, with signatures to follow.

- However, as of October 31, 2024, the OPAC has not signed the agreement with SVV.

3/27/24 <u>Unauthorized Mailbox Installation</u>

(Attachment 12- The revised side letter agreement includes in the redlined edits an agreement that OPAC will provide a key to SVV to the authorized mailbox that OPAC staff installed at the PACC)

- A key issue in the second draft of the revised side letter agreement was OPAC's unauthorized installation of a locked mailbox (Item 9 in the agreement).

- This was discussed in a meeting on March 17, 2024, where the agreed solution was that both parties would have a key to the mailbox, and any misdelivered mail would be immediately handed to the correct party.

08/20/24 <u>Business Competition</u>

(Attachment 13 - Four pages of email correspondence between SVV General Manager Richard Belloff and his client at the Oxnard School District (OSD). In this email thread, OSD rescinds their room rental request through SVV and states they will rent through OPAC after discussing a room rental agreement with OPAC employee Jose Becerra.)

- OPAC was accused of taking clients from SVV, as noted in Attachment 13. An SVV client canceled their reservation with SVV to book the same room through OPAC instead, raising concerns about unfair competition between the two organizations.

10/11/24 Failure to Report Accurate Rentals

(Attachment 14 - Email from SVV General Manager Richard Bellhoff to Director Terrel Harrison regarding another discovery of OPAC reporting inaccurate rental fees.)

- On Oct. 11, 2024, City staff was informed of inaccurate rental reporting for the community rooms as SVV prepared to submit payments for September. The discrepancy was uncovered when a customer, who had hired SVV for bartending services, requested an additional hour, bringing the total rental to three hours.

- However, OPAC reported only two hours for payment. SVV notified City staff of their intention to collect the missing funds and would inform the City once the payment is received.

Oxnard city support for cannabis event at The Canyon at OPAC

Harrison, Terrel <terrel.harrison@oxnard.org> Tue, Oct 15, 2024 at 4:24 PM
To: "Estrada, Julie" <julie.estrada@oxnard.org>

Terrel Harrison
Cultural and Community Services Director
City of Oxnard
805-385-7995 (P)

---------- Forwarded message ---------
From: **Gabe Teran** <gabe.teran@oxnard.org>
Date: Tue, Jul 9, 2024 at 3:22 PM
Subject: Re: Oxnard city support for cannabis event at The Canyon at OPAC
To: Sean Harding <hardingseansf@gmail.com>
CC: <Carolyn@theopac.org>, Terrel Harrison <terrel.harrison@oxnard.org>

Hi Sean,

Thanks for reaching out. The City Council actually does not typically have events at the OPAC come before them for approval. The property is owned by the City, but the entertainment operations are contracted to Sterling Venue Ventures who usually hosts shows in the large theater, and the OPAC Non-Profit runs the rental side of the facility. My guess would be that those entities have likely entered into an agreement with the host/vendors of the Taco Tuesday event. Just want to give credit where it is properly due, for those who are happy with any of the center's community offerings.

I have CCd the Executive Director for the OPAC non-profit, Carolyn Mullin, as she may be able to provide any additional info on this. I have also CCd our director of Cultural and Community Services, should you have any additional questions about the City's side of the OPAC, or any cultural arts-related efforts.

Thanks again,

Gabe Teran (he/him/él)
City Councilmember, District 2
City of Oxnard

On Tue, Jul 9, 2024 at 3:06 PM Sean Harding <hardingseansf@gmail.com> wrote:

> Good afternoon, Oxnard folks. I want to commend you for your forward thinking when it comes to embracing events for everyone in the community. I'm hoping this email lands in the right places, so please forgive me if it doesn't.
>
> I'm looking forward to tonight's event at The Canyon at OPAC for Taco Tuesday, music, and a host of cannabis vendors. Having grown up in the Bay Area, I've always been surrounded by a strong cannabis community. Now that I reside in Oxnard, I'm happy to see this city embracing this kind of gathering as safe spaces for us to enjoy.
>
> I've attempted to connect with The Canyon at OPAC but didn't get a response. My neighbor mentioned the facility is owned by the city and to look for email contacts on your website. I had no luck locating any information dedicated to The Canyon at OPAC, but I did find an arts page that included something about Recreation Services. I figured this was the right place given tonight's event is a celebration of recreational cannabis. I'm also including all the council members because I'm not sure which one represents my district. Please forgive my ignorance on this matter.
>
> I'm hoping to run into some of you tonight at The Canyon at OPAC. I would love to introduce myself and my sister, Sasha. We're getting more active in the arts scene in Oxnard. I've attached screenshots of the social media posts I found on Instagram.
>
> We're also interested in organizing fundraisers at the performing arts center to benefit the many talented and skilled artists living and working in this city. Please let us know who we can talk to about planning cannabis related events and any special permits required to make it happen.
>
> Once again, thank you for all you do and for proving Oxnard is a progressive place with a strong creative edge.
>
> All the best.
>
> Sean Harding
> Oxnard Resident

TacoTuesdays
Instagram @TacoTuesdays805
Samples provided by
1st 99 FREE
CannaMart
7/9
Hosted by Mr Cat Daddy
Eventbrite.com
6:30pm-10pm
1st 25 free Gift Bag
SIMPLY NURTURING
CA
Local Taco vendors
Smoke Lounge
KITE CONCENTRATE
21+ with Valid ID
800 Hobson Way
Oxnard Performing Arts Center
Free tickets available @ Eventbrite.com TacoTuesdays805
Designer SeanAries

iascone.llc

Sugartapes · Dance All Night

The Canyon at OPAC

iascone.llc 2d · 🌮🎵🌱🍄Taco Tuesdays🍄🌱🎵🌮 Celebrate with us at the Oxnard Canyon Club!

Join the fun July 9th at 800 Hobson Way, Oxnard, for a night filled with delicious tacos, great music, canna vendors and amazing company. Don't miss out on the best midweek treat in town!

📍 Where: 800 Hobson Way, Oxnard
📅 When: Tuesday July 9th
🕐 Time: 6:30 PM - 10 PM

Gather your friends and family for an unforgettable Taco Tuesday experience! 🌮❤️ 21+ with Valid ID

#taco #tuesday #tacotuesday #corn #fresh #food #music #fun #friends #805 #ventura #oxnard #californtia #canna #hash #rosin #cbd #life #local #farmersmarket #farm #marketing #night #style #living #fyp #fypシ #fy #fypage

This *Side Letter* is in reference to the AGREEMENT FOR OPERATIONS OF THE OXNARD PERFORMING ARTS AND CONVENTION CENTER ROOMS made and entered into on February 18, 2020, by and between STERLING VENUE VENTURES, LLC., and THE CITY OF OXNARD. The *Side Letter* is agreed upon by Mr. Lance Sterling of Sterling Venue Ventures and Mr. Gary Blum, Chairperson of the OPAC Corporation Board of Directors. This *Side Letter* was updated as per the discussions of December 8, 2021.

	Area for Clarification	Resolution
1	*SVV agrees to allow OPAC to continue to base its offices out of the facility.*	The location of the OPAC offices will remain on their side of the facility.
2	*For all events booked by OPAC in the Ventura, Oxnard, and other meeting rooms, OPAC will retain 100% of the proceeds, less expenses and rent paid to the City of Oxnard.*	For all user requests for the auditorium, all requests will be referred directly to SVV for booking without any intervention by OPAC staff. Likewise, all requests for use of the convention/meeting rooms will be referred to the OPAC Executive Director for booking. OPAC will retain 100% of the proceeds from the convention/meeting room rental, less expenses and rent paid to the City. Rent will be turned into SVV management by the first of the month. Check may be written to SVV with appropriate back-up with booking for the next month.
3	*OPAC will maintain the Ventura and Oxnard meeting rooms and their adjoining courtyards in a clean and appropriate manner and will be responsible for cleaning the rooms after each OPAC scheduled event.*	Agreed -- Any and all repairs are to be completed in accordance with building and safety codes. OPAC staff is to inform SVV of such repairs.
4	*This agreement is contingent upon SVV's agreement with the City of Oxnard. Any requests must be in compliance with the master lease.*	Agreed.
5	*SVV will control the calendar for the venue. All events OPAC wishes to confirm must be approved in advance by SVV.*	If concurrent bookings of the auditorium and the convention/meeting rooms occur, OPAC and SVV will collaborate to resolve any foreseen usage conflicts. SVV will control the calendar for the use of the auditorium. OPAC will control the calendar for the use of the convention/meeting rooms. Procedures are in place for the sharing of calendars. Concerts with over 300 persons must be approved by SVV to ensure that all licenses, fees, and insurance issues are in place.
6	*OPAC cannot enter into any binding agreements with any 3rd parties.*	Agreed.
7	*OPAC shall provide SVV with copies of all rental agreements and insurance endorsements.*	Agreed. OPAC will indemnify the City of Oxnard and SVV, as appropriate.

8	*SVV will carry the liquor license for the entire*	Any room renter who requests bar service will

	location and shall have the right to inspect all areas of the center. OPAC agrees that at no time will outside vendors, renters, etc., be permitted to sell or distribute alcohol on the property.	be referred to SVV, and the SVV staff will handle all contractual arrangements. Prices may be modified with three weeks' notice by SVV. Prices are only guaranteed if the client has entered into a contract with the deposit. SVV has provided OPAC an updated bar service form request and pricing form to be provided to potential room renters upon their request for such services.
9	*OPAC employees, board members, etc., must only represent themselves as being the designated management of the non-profit.*	The OPAC Board will follow up to ensure that all OPAC staff indicate to the public and potential facility users that the OPAC is responsible only for the two ballrooms and meeting rooms and not the auditorium, and that SVV is the sole responsible party to be contacted for auditorium usage. The staff of SVV and OPAC will represent to the public and potential users that both parties are responsible operators advancing facility use in the spirit of the City's expectations for this venue.
10	*OPAC will refrain from contacting the City directly with repair/maintenance requests. Any and all repairs, maintenance, remodeling or degradation of the property proposed or desired by OPAC must first receive authorization from SVV. SVV will be solely responsible for interacting with the City on these matters.*	OPAC will ensure that all OPAC staff refer all needs and problems regarding repair and maintenance needs to the management of SVV and not to any City staff. As stated in the *Agreement,* SVV will be solely responsible for interacting with the City on these matters. Any requests or inquiries from outside agencies, such as for Fire Department inspections , will be directed to SVV. OPAC names Gary Blum, OPAC Board chairperson, and Jose Becerra, OPAC rental coordinator and operations director, as the contact persons to SVV management regarding any problems or concerns.
11	*SVV shall maintain responsibility for the main marquee at the Center. SVV shall ensure that OPAC has sufficient signage in display cases located throughout the property (exclusive of the Auditorium), as well as appropriate access to marquee usage.*	OPAC is anxious to see the marquee repaired and fully functional as soon as possible for the mutual benefit of SVV and OPAC.
12	*Because the OPAC has received community complaints regarding the deterioration of the grass areas and "curb appeal" of the complex, the OPAC wishes to clarify who is responsible for the ongoing irrigation and upkeep of the lawns and garden areas.*	The common areas north of the gate are the responsibility of OPAC. The general appearance of the common areas and "curb appeal" of the facility are in need of attention. SVV will continue to work with the City to provide operational irrigation and appropriate gardening services to the outside common areas. SVV will follow up with the City to address these needs.

The signatories below agree that this *Side Letter* is to be added as an addendum to the *Agreement for Operations of the Oxnard Performing Arts and Convention Center Rooms,* entered into on February 18, 2020, by the City of Oxnard and Sterling Venue Ventures.

Lance Sterling, for Sterling Venue Ventures date

Gary Blum, for OPAC Corporation Board 12/9/21 date

Stephen M. Fischer
City Attorney

CITY OF OXNARD CALIFORNIA

Office of the City Attorney

305 West Third Street, Suite 100E
Oxnard, CA 93030
(805) 385-7483
Fax (805) 385-7423

October 21, 2022

VIA FIRST CLASS AND ELECTRONIC MAIL

Oxnard Performing Arts Center Corporation
800 Hobson Way
Oxnard, CA 93030
ATTN: Carolyn Mullin

Via electronic mail to: Director@oxnardperformingarts.com

Re: Oxnard Performing Arts Center

Ms. Mullin:

City staff has informed the Office of the City Attorney that in recent weeks you have changed the locks and installed security alarms in the rooms located at the Oxnard Performing Arts Center ("OPAC"), and placed the United States flag at half-staff without authorization.

I am writing this letter to direct that you:

(1) immediately provide copies of current keys to the locks you have changed, and the alarm codes to the City's Cultural and Community Services Director, Terrel Harrison and to Sterling Venue Ventures owner, Lance Sterling;
(2) change the locks back to their original configurations by November 1, 2022; and
(3) refrain from placing any flags located in or around the OPAC at half-staff in the future without authorization.

The City and Sterling Venue Ventures maintain an agreement for the operation of the rooms at the OPAC. That agreement clearly authorizes Sterling Venue Ventures, and no other individual or entity, to provide alarm monitoring services and to secure the rooms. For avoidance of any doubt, aside

from the use of the rooms for City events, Sterling Venue Ventures has exclusive control over the rooms.

Should you fail to provide copies of the keys and the alarm codes immediately, or to change the locks back to their original configurations by November 1, 2022, the City will pursue any and all legal remedies available to ensure your compliance.

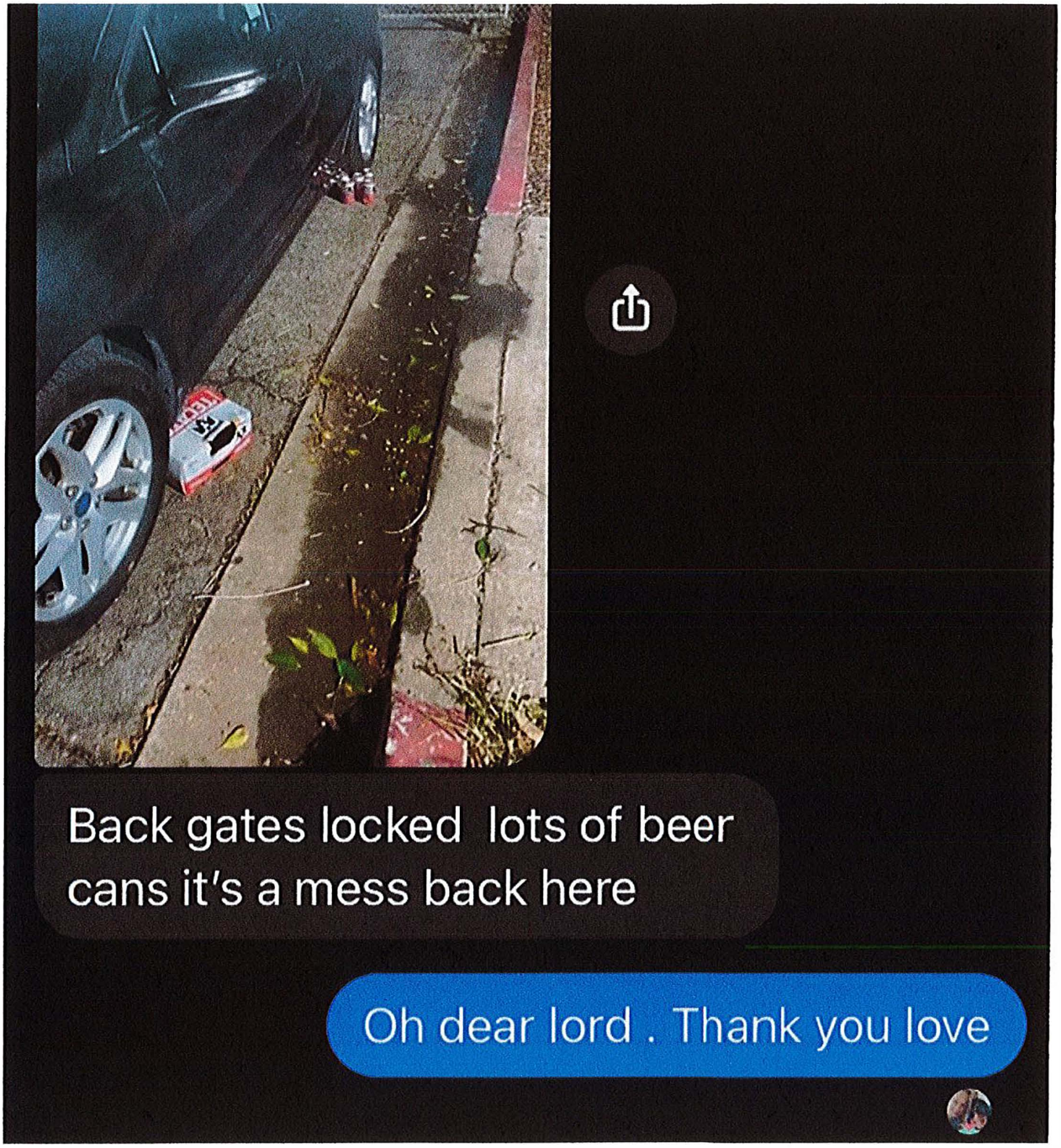
Further, while we understand why you placed the flag at half-staff in honor of Supervisor Ramirez, the City must comply with national flag protocol. As was previously communicated to you, only the President of the United States or the Governor of California can order that flags at city-owned facilities be flown at half-staff.

Should you have any questions, please email me at Jason.Zaragoza@Oxnard.org.

Thank You,

Jason Zaragoza
Deputy City Attorney II

Screenshot of a text message containing an image of the rear parking lot for the Performing Arts Center. Richard Belloff of Sterling Venue Ventures received the message from an associate and sent a screenshot to Terrel Harrison.



Estrada, Julie <julie.estrada@oxnard.org>

PACC Youth Center

Harrison, Terrel <terrel.harrison@oxnard.org> Thu, Apr 6, 2023 at 1:06 PM
To: Carolyn Mullin <director@oxnardperformingarts.com>, Gary Blum <garyaths@aol.com>
Cc: "Lance Sterling (primary)" <lance@wmmts.com>, Richard Belloff <richard@wmmts.com>, Luanne Nast <luannenast@gmail.com>, Julie Estrada <julie.estrada@oxnard.org>

Today one of our Coordinators went to the Youth Center located at the Performing Arts & Convention Center and made a troubling discovery. Inside the room that is not to be utilized for programming at this time was a table filled with art supplies and a multi-panel mural standing in the room. It also appears that someone is actively working in the area as lights were left on and fresh paint was out. After some discussion, it was discovered that this mural was facilitated by the Oxnard Performing Arts Center Corporation.

As a reminder this room, its courtyard, and its parking lot is not included in any of the operators agreements with Sterling Venue Ventures and therefore can not be included in any of its sub agreements as this space is for the sole use of the City of Oxnard programs. You have 24 hours to remove the items, moving forward, no one is to enter this room for any reason without city personnel approval and escort. This room is closed for a specific cause and is not to be entered or disturbed without proper clearance. Failure to abide will be considered trespassing on city property and a formal notice will be issued.

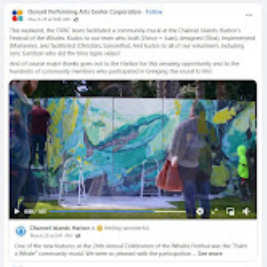
--

Terrel Harrison - **Cultural & Community Services Director**
Cultural & Community Services Department
305 West Third Street . 1st Floor - West Wing
Oxnard, California 93030
O: 805.385.7994
www.oxnard.org

3 attachments

IMG_1896.jpeg
3598K

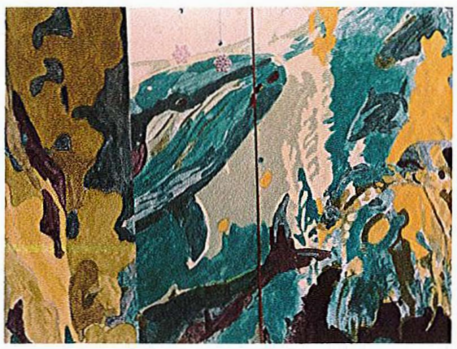
IMG_1897.jpeg
3561K

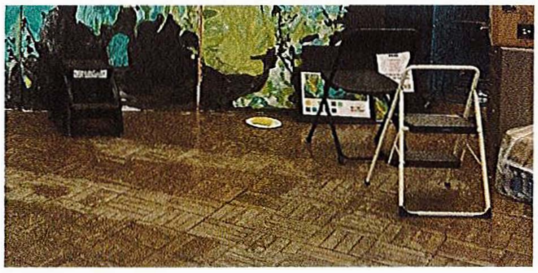


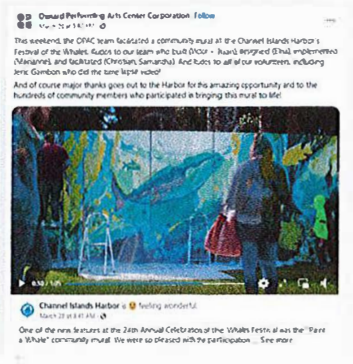
screen capture.JPG
118K

Over the last few weeks there have been some incidents that need to be discussed surrounding the use of facilities at the Oxnard Performing Arts and Convention Center. The first incident was sent to both Carolyn and Gary on April 6th. The message sent was:

> *Today one of our Coordinators went to the Youth Center located at the Performing Arts & Convention Center and made a troubling discovery. Inside the room that is not to be utilized for programming at this time was a table filled with art supplies and a multi-panel mural standing in the room. It also appears that someone is actively working in the area as lights were left on and fresh paint was out. After some discussion, it was discovered that this mural was facilitated by the Oxnard Performing Arts Center Corporation.*
>
> *As a reminder this room, its courtyard, and its parking lot is not included in any of the operators agreements with Sterling Venue Ventures and therefore can not be utilized by any of its lessees as this space if for the sole use of the City of Oxnard programs. You have 24 hours to remove the items, moving forward, no one is to enter this room for any reason without city personnel approval and escort. This room is closed for a specific cause and is not to be entered or disturbed without proper clearance. Failure to abide will be considered trespassing on city property and a formal notice will be issued.*







The second incident occurred last week when I received a call from the Mayor with concerns regarding the Performing Arts Center Facility. The first point of concern is that the mayor was made aware of a Fire at the PACC facility, but my office was not made aware of a fire at the location. If there is such an incident that needs to be reported immediately through Sterling Venue Ventures. Martin Boos contacted the Mayor's office saying that he was turned away after being contacted by staff to do a clean up in a courtyard and some paint on the side of the building for an upcoming event. After receiving this message we contacted Carolyn, she said

that she didn't know what he was talking about, there wasn't a fire, and she hasn't spoken to Mr. Boos. She did mention that she follows him on social media and knows what he does but she wasn't aware of what we were talking about.

After confirming with the Mayor's office again, I called Mr. Boos to inform him that I spoke with Carolyn and she was not aware of what he was talking about. Mr. Boos reiterated that he received a request from Carolyn to do a clean-up. I then called Carolyn back and told her Mr. Boos was adamant that he received a request from her. She then said she left him a message but never actually spoke to Mr. Boos. When I asked why she didn't say that the first time I did not receive a response.

It is important that the City of Oxnard holds faith in those who are in operation of their facilities and the trust in the delivery of complete and true information is key in keeping that faith. Over the last month this now makes twice where we have had to send notices to the Oxnard Performing Arts Center Corporation in regards to conduct. I am not sure what courtyard was in need of a clean-up and paint as our operations contract has all basic upkeep of the areas within the indicated fenced area is to be maintained by the contractor, Sterling Venue Ventures, and through the side letter for the convention/meeting rooms the Non-profit is to maintain and SVV should be notified for any repairs.

CITY OF OXNARD CALIFORNIA

Estrada, Julie <julie.estrada@oxnard.org>
Type text here

Re: fire on exterior of PACC campus

1 message

Harrison, Terrel <terrel.harrison@oxnard.org> Wed, Nov 30, 2022 at 12:30 PM
To: Carolyn Mullin <director@oxnardperformingarts.com>
Cc: Brian Allen <brian.allen@oxnard.org>, "Estrada, Julie" <julie.estrada@oxnard.org>, Gary Blum <garyaths@aol.com>, Lance Sterling <lance@wmmts.com>, Richard Belloff <richard@wmmts.com>

Richard,
Please talk to Brian Allen from the City to have him take a look at this…
Thank you..

On Wed, Nov 30, 2022 at 12:23 PM Carolyn Mullin <director@oxnardperformingarts.com> wrote:

> Hi, Richard and Lance,
>
> I wanted to bring to your attention a fire that happened on the park-side of the complex; it singed the building, just on the other side of the Fillmore Room. Picture is attached. It looks like the plant material just needs to be moved and the wall pressure-washed and painted. There was no damage to the interior of the classroom. The neighborhood council was also asking for an update on the 9th Street Lot chain/lock.
>
> I don't believe we have a meeting set up with the City-SVV-OPAC for December, so if you don't mind asking how they'd like to proceed, that would be great. Maybe this could be tackled during our next volunteer day, but that probably won't be until January at the earliest.
>
> -Carolyn

OPAC
Carolyn Merino Mullin
Executive Director
800 Hobson Way | Oxnard, CA 93030
C: (805)651-3207
O: (805)385-8147
director@oxnardperformingarts.com
oxnardperformingarts.com

--
Terrel Harrison
Cultural and Community Services Director
City of Oxnard
805-385-7995 (P)

Fwd: March 31st.

1 message

Harrison, Terrel <terrel.harrison@oxnard.org> Thu, May 11, 2023 at 1:13 PM
To: "Estrada, Julie" <julie.estrada@oxnard.org>

FYI

---------- Forwarded message ---------
From: **Richard Belloff** <richard@wmmts.com>
Date: Thu, May 11, 2023 at 12:46 PM
Subject: Fwd: March 31st.
To: Terrel Harrison <terrel.harrison@oxnard.org>

Hi,
Please call me to discuss this.

Richard Belloff
General Manager Oxnard Perfoming Arts Center
818-519-3776

Begin forwarded message:

From: Carolyn Mullin <carolyn@theopac.org>
Date: May 11, 2023 at 11:23:21 AM PDT
To: Richard Belloff <richard@wmmts.com>
Cc: Luanne Nast <luanne@wmmts.com>, Lance Sterling <lance@wmmts.com>, Gary Blum <garyaths@aol.com>, Gary Davis <4garydavis@gmail.com>, Jose Becerra <jose@theopac.org>
Subject: Re: March 31st.

Hi, all -

Apologies as I didn't have my calendar in front of me yesterday. The March 31st event was presented by OPAC, so not a rental and thus not included in the list of rental payments we gave you. Attached is the additional certificate of insurance we pulled for this event. We also had an EMT on-site for the duration of the event and no slip-and-fall (or any big incident), to my knowledge, had been reported.

The 2 other concerts - both rentals - that happened around this time were on Friday, April 7 and another on April 8, both by different promoters/rental clients. If you need additional information on these, please let me or Jose know.

Thank you,

Carolyn

OXNARD PERFORMING ARTS CENTER NON PROFIT

Carolyn Merino Mullin
Executive Director

805-651-3207 carolyn@theopac.org TheOPAC.org
800 Hobson Way Oxnard, CA 93030

Our mission: To foster and serve our community through inclusive programming, cultural and artistic exchange, and developing people-centered spaces.

On Thu, May 11, 2023 at 10:57 AM Richard Belloff <richard@wmmts.com> wrote:

> Good Morning Carolyn,
>
> The date in question we discussed during the meeting yesterday is March 31st. Please send me a copy of the invoice to the promoter and all insurance forms plus their contact information.
>
> Thank you,
>
> Richard Belloff
> General Manager Oxnard Perfoming Arts Center
> 818-519-3776

--
Terrel Harrison
Cultural and Community Services Director
City of Oxnard
805-385-7995 (P)

Certificate (1).pdf
112K

Stephen M. Fischer
City Attorney

Office of the City Attorney

305 West Third Street, Suite 100E
Oxnard, CA 93030
(805) 385-7483
Fax (805) 385-7423

CITY OF OXNARD CALIFORNIA

November 17, 2023

VIA FIRST CLASS AND ELECTRONIC MAIL
Sterling Venue Ventures, LLC.
28912 Roadside Dr.
Agoura Hills, CA 91301
Attn: Lance Sterling

Via electronic mail to: Lance@wmmts.com

Re: Demand for unpaid rental fees

Mr. Sterling:

I am writing on behalf of the Office of the City Attorney to address a matter of significant concern regarding Agreement No. 8210 ("Agreement") between the City of Oxnard ("City") and Sterling Venue Ventures ("SVV") for the operation of the Oxnard Performing Arts and Convention Center Rooms ("PACC Rooms"). SVV in turn allows the Oxnard Performing Arts Center Corporation ("PACC") operate the PACC Rooms.

As stipulated in Section 4.1 of the Agreement, SVV is obligated to remit 50% of all fees collected from renters of the PACC Rooms to the City -- as outlined in Exhibit C of the Agreement. These rates, established by the Oxnard City Council, are non-negotiable and serve as definitive benchmarks for financial transactions under our contractual arrangement.

Regrettably, it has come to light that, over the course of several years, the PACC has either directly organized or permitted third parties to conduct numerous events in the PACC Rooms without remitting the stipulated rental fees to SVV, contravening the terms expressly set forth in the Agreement.

In light of these discrepancies the City hereby demands that SVV promptly remits to the City 50% of all rental fees attributable to events[1] held in the PACC Rooms throughout the entire term of the Agreement. Unfortunately, due to the lack of comprehensive records available to the City, we are unable to specify a precise dollar amount owed at this time.

To address this issue and facilitate an accurate resolution we request that no later than January 1, 2024, SVV provides the City with a detailed list of every event conducted in the PACC Rooms during the term of the Agreement. This information will enable the City to tailor its demand accordingly, factoring in the number of events and the corresponding fees established in Exhibit C of the Agreement.

We trust that SVV will take immediate and diligent action to rectify this matter and uphold the terms of our Agreement. Failure to do so may result in further legal action to safeguard the interests of the City.

Thank you for your attention to this pressing issue. We look forward to resolving this matter amicably.

Should have any questions, please email me at Jason.Zaragoza@Oxnard.org.

Thank You,

Jason Zaragoza

Jason Zaragoza
Deputy City Attorney III

[1] The Agreement defines "Event" as *"**any** presentation, show, performance, showcase or any other live entertainment, or event put on by SVV hosted in the PACC ROOMS."*

LAW OFFICE OF GARY KURTZ, INC.
30101 Agoura Court
Suite 118
Agoura Hills, California 91301

(818) 884-8400 (telephone)
(818) 884-8404 (telefax)
eMail: gary@garykurtzlaw.com

Gary Kurtz, Esq.

November 28, 2023

Myers Widders Gibson, Jones & Feingold
39 N. California Street
Ventura, CA 93001

Info@MWGJLaw.com

Re: Oxnard Performing Arts Center Corporation
Current Example of Non-Compliance

Dear Counsel:

This letter is being addressed to your firm rather than the Oxnard Performing Arts Center Corporation ("OPAC") because your firm has previously indicted representation of OPAC. If that is no longer the case, please make that known immediately so we may communicate directly.

In addition to the myriad of prior issues, Sterling Venue Ventures, LLC ("SVV") has recently been given notice that OPAC has failed to comply with financial obligations. Attached is a copy of a disturbing letter that was recently received from Jason Zaragoza, Deputy City Attorney for the City of Oxnard. Mr. Zaragoza expresses concern that PACC rooms have been rented for income without providing the City of Oxnard with the required 50% and has demanded a specific accounting for all events. The due date is January 1, 2024.

SVV has complied with its financial obligations and has records of its events to comply with the City's demand. SVV does not have the required information for OPAC. Attention is directed to paragraph 2 or the side letter between SVV and OPAC, which states:

> OPAC will retain 100% of the proceeds from the convention/meeting room rental, less expenses and rent paid to the City.
>
> Rent will be turned into SVV management by the first of the month. Check may be written to SVV with appropriate back-up with booking for the next month.

The side letter is an Addendum to "the Agreement for Operations of the Oxnard Performing Arts and Convention Center Rooms, entered into on February 18, 2020, by the City of Oxnard and Sterling Venue Ventures. Paragraph 4.1 of that Agreement provides:

> Lease Rate for SVV Events. For each EVENT SVV conducts in the PACC ROOMS, SVV shall pay CITY 50% of all fees collected from renters, in accordance with the approved fee schedule, attached hereto as "Exhibit C" and incorporated by this reference. SVV shall remit payments to CITY no more than thirty (30) days after each EVENT.

The room charges for special events are outlined as follows:

BANQUET ROOM CHARGES

CHARGE	OXNARD ROOM	VENTURA ROOM
Room Rental Fee		
Mon-Thurs	$200/hour	$150/hour
Fri-Sun Daytime (8am-3pm)	$257/hour	$175/hour
Fri-Sun Evening (4pm-11pm)	$358/hour	$286/hour
Refundable Cleaning Deposit	$500	$500
One-Day Permit	$73	$73
Kitchen Fee	$100	$100

MEETING ROOM CHARGES (45 PERSON CAPACITY)

FILMORE ROOM | SANTA PAULA ROOM | HUENEME ROOM*
CAMARILLO ROOM | THOUSAND OAKS ROOM*

*ROOMS MAY BE COMBINED INTO ONE LARGE MEETING ROOM

CHARGE	OXNARD RESIDENT
Weekday Rental Fee	$45/hour
Weekend Rental Fee	$65/hour
Refundable Cleaning Deposit	$100

2-HOUR MINIMUM FOR MEETING ROOM RENTALS

RENTAL RATES INCLUDE SET-UP WITH EXISTING INVENTORY OF TABLES AND CHAIRS. ADDITIONAL SET-UPS WILL BE CHARGED EXTRA

We hope an expect OPCC has complied with this fee structure.

In order for SVV to timely provide the City of Oxnard with the required information, it is essential that OPAC provide the information to SVV no later than December 11, 2023. OPAC is already in material breach of the Side Agreement. Failure to provide the information would compound the consequences of that breach and may require substantial remedial measures.

Very truly yours,

Gary Kurtz
Of
Law Office of Gary Kurtz, Inc.

Where music meets the Soul.COM

To: City of Oxnard
Attn: Terrel Harrison / Cultural & Community Services Director

From: Lance Sterling / Sterling Venue Ventures, LLC

Date: February 6, 2024

To whom It may concern:

Sterling Venue Ventures has two Agreements with the City of Oxnard, one for operation of the Auditorium at Oxnard Performing Arts Center, and the second for Operation of the various Oxnard Performing Arts Center Rooms.

Article 2 Terms Of Agreement / Paragraph 2.1 of the Rooms Agreement stipulates that SVV shall operate the "PACC Rooms" in coordination with the Oxnard Performing Arts Center Corporation Board of Directors" - and herein lies the problem. In keeping with the spirit of this Agreement, SVV has agreed to allow OPAC to continue to base its offices out of the facility, and has also allowed OPAC to book the Rooms, with the understanding that in doing so, OPAC would follow the terms of SVV's Agreement with the City.

However, it has now been determined that OPAC mistakenly believes they do not owe rent on any of OPAC's own events, and has therefore, has not paid rent to the tune of $34,267.50 – which equates to 50% of the rent due (as stipulated in Article 4 Lease Rates / Paragraph 1 of SVV's Agreement with the City) for OPAC's own events from March 2020 through the end of 2023.

We have met collectively with several members of the OPAC Board, and individually with Gary Davis, President of the Board, to try to reconcile this misunderstanding, and collect the funds owed to the City of Oxnard. At this point in time, we are at our wit's end, as the OPAC Board will not agree to pay their rent. Therefore, we must take action now, to ensure the City of Oxnard receives the monies rightfully owed pursuant to our original Agreement.

Therefore, based on the legal obligation of our contract, this month Sterling Venue Ventures will reimburse the City, from our own assets, the $34,267.50, and will notify the OPAC Board that, effective immediately, SVV will take sole control of booking and managing the PACC Rooms, so we can insure that the City of Oxnard is duly paid the funds it is rightfully owed in all instances in the future.

We do intend to attempt to recoup the $34,267.50 from OPAC. We also plan to allow them to continue to base their offices at the facility, and to continue to produce events there. But, as previously stated, to make certain that those events are handled honestly and professionally in accordance with our Agreement with the City of Oxnard, SVV will, from this point forward, take over 100% control of finances, booking and management of the PACC Rooms.

Attachment 10

STERLING VENUE VENTURES, LLC
(THE ROSE)
28912 ROADSIDE DR
AGOURA HILLS, CA 91301

2072

10-1606/1220

Type text here

DATE 2/28/24

PAY TO THE ORDER OF City of Oxnard $ 34,267 50/100

Thirty four thousand two hundred sixty seven and 50/100 DOLLARS

CITY NATIONAL BANK
AN RBC COMPANY
(800) 773-7100

PERSONAL & BUSINESS BANKING

FOR ~~Mega~~ Rent Oxn owed by NP.

⑈002072⑈ ⑆122016066⑆ 224151802⑈

CITY OF
OXNARD
CALIFORNIA

City of Oxnard, CA
CULTURAL & COMMUNITY SERVICES
300 W THIRD STREET
OXNARD, CA 93030
(805) 385-3980

Welcome to the City of Oxnard
03/25/2024 10:34AM Claudia G
003285-0001 000011783
Payment Effective Date 03/25/2024

MISCELLANEOUS
CS REC- COMMUNITY ROOMS
(REC-16)
2024 Item: REC-16
1 @ $34,267.5000

CS REC- COMMUNITY ROOMS (REC-16)	$34,267.50
999-10100-	$34,267.50D
6415601-43100-	$34,267.50C
	$34,267.50
Subtotal	**$34,267.50**
Total	**$34,267.50**
CHECK	$34,267.50
Check Number 2072	
Change due	**$0.00**

Paid by: Sterling Venue Ventures- Mtg rooms rent- March 2020-Dec. 2023

Thank you for your payment

City of Oxnard, CA COPY

REVISED AGREEMENT
BETWEEN STERLING VENUE VENTURES and OPAC BOARD OF DIRECTORS

(1) SVV agrees to allow OPAC to continue to have an office at the Oxnard Performing Arts Center, through February 28, 2025, in accordance with the stipulations below.

(2) SVV must be included or copied on all requests to hold events on property, and must have access to all documents pertaining to each event – this applies to all events booked through February 28, 2025 – as well as any and all events scheduled after that date.

(3) OPAC cannot enter into any binding agreements with any third parties to work out of the OPACC. As stated above, the SVV GM must be included or copied on all booking requests for the auditorium, convention/meeting rooms, courtyards, parking lots. Once an event is approved by SVV, OPAC must submit a Rental Agreement Packet form with all supporting documents (customer invoice and subsequent rental agreements and corresponding contracts that involve outside vendors). These agreements and contracts must be printed out on paper and turned into the SVV General Manager.

(4) OPAC will retain half of the rent from the events OPAC holds in the convention/meeting rooms, courtyards, parking lots. Rent checks will be delivered to SVV management the first of every month, along with existing excel spreadsheet and completed Net Of Door Form.

- Rental rates apply to all events, including those hosted or presented by OPAC. Anytime any part of the property is being used exclusively by OPAC or a client, rent must be collected on the City's behalf.

- Any and all sales of alcohol will be conducted by SVV. Therefore, any renter who requests bar service will be referred directly to SVV to handle all contractual arrangements.

- SVV will be the sole provider of security staff and will ensure that the conditions outlined in SVV's agreement with the City are met for all events held on the OPACC property.

- All food consumed within the premises must be prepared in accordance with the Health Department, FDA, and in accordance with California state law.

- The OPAC Board of Directors and all outside vendors must provide proof of insurance, as well as a letter of indemnification to SVV, and must be responsible for reporting and paying sales tax for each respective event.

- OPAC will provide SVV with a list of pre-approved caterers which match the criteria detailed above, and will include SVV on that list. Once the list is submitted and approved, only these caterers will be permitted to perform services on the OPACC property.

(5) There is no charge to use any of the l equipment that is permanently mounted in the rooms. In most cases, SVV will use their own sound and lighting equipment, but if OPAC's equipment is used for SVV events, OPAC will provide SVV with a discounted rental rate.

(6) OPAC may submit to SVV requests to feature events on the marquee. SVV will attempt to include one OPAC event on the marquee at all times, but this is not guaranteed.

(7) All repairs and maintenance issues are to be completed in accordance with building and safety codes. OPAC is not authorized to make repairs or modifications at any time. Upon noticing the need for specific repairs or modifications OPAC board members and staff must immediately notify SVV of such needs. This also applies to operational irrigation and appropriate gardening services to the exterior common areas. SVV will then work with the City to determine best methods for repairs. OPAC board members and staff cannot take these matters directly to City personnel. Further, any requests or inquiries from outside agencies, such as Fire Department, City Maintenance Department, Health, etc., must be immediately directed to SVV.

(8) SVV and OPAC will share the existing mail receptacle.

(9) SVV will re-key all locks on the premises that were changed by OPAC without authorization. This also applies to all alarm codes and security cameras.

(10) SVV must have total access to the Box Office area, and therefore OPAC must vacate that area no later then April 30, 2024. OPAC and SVV will work together to determine where to relocate office space for OPAC files and staff currently situated in the box office area.

(11) SVV must also have total control to the display windows that face the parking lot near the box office area.

Confirmed & Agreed to by OPAC:

---	---	---
Signature	Print Name	Date

Confirmed & Agreed to by Sterling Venue Ventures:

---	---	---
Signature	Print Name	Date

Where music meets the Soul™ .COM

REVISED AGREEMENT
BETWEEN STERLING VENUE VENTURES and OPAC BOARD OF DIRECTORS

(1) SVV agrees to allow OPAC to continue to have an office at the Oxnard Performing Arts Center, through February 28, 2025, in accordance with the stipulations below.

(2) SVV must be included or copied on all requests to hold events on property. Should OPAC receive any requests, they will immediately be directed to the SVV GM.

(3) OPAC cannot enter into any binding agreements with any third parties to work out of the OPACC. As stated above, the SVV GM must be included or copied on all booking requests for the auditorium, convention/meeting rooms, courtyards, parking lots. Once an event is approved by SVV, OPAC must submit a Rental Agreement Packet form with all supporting documents (customer invoice and subsequent rental agreements and corresponding contracts that involve outside vendors). These agreements and contracts must be printed out on paper and turned into the SVV General Manager.

(4) OPAC will retain half of the rent from the events OPAC holds in the convention/meeting rooms, courtyards, parking lots. Rent checks will be delivered to SVV management the first of every month, along with existing excel spreadsheet and completed Net Of Door Form.

- Rental rates apply to all events, including those hosted or presented by OPAC. Anytime any part of the property is being used exclusively by OPAC or a client, rent must be collected on the City's behalf.

- Any and all sales of alcohol will be conducted by SVV. Therefore, any renter who requests bar service will be referred directly to SVV to handle all contractual arrangements.

- SVV will be the sole provider of security staff and will ensure that the conditions outlined in SVV's agreement with the City are met for all events held on the OPACC property.

- All food consumed within the premises must be prepared in accordance with the Health Department, FDA, and in accordance with California state law.

- The OPAC Board of Directors and all outside vendors must provide proof of insurance, as well as a letter of indemnification to SVV, and must be responsible for reporting and paying sales tax for each respective event.

- OPAC will provide SVV with a list of pre-approved caterers which match the criteria detailed above, and will include SVV on that list. Once the list is submitted and approved, only these caterers will be permitted to perform services on the OPACC property.

(5) OPAC must provide to Sterling a complete list of all property and equipment owned by the non-profit by 3/30/24.

(6) All equipment permanently installed in the rooms is the property of the City of Oxnard. All other equipment must be removed and stored in the appropriate area; to be determined, and must be set up and torn down with each OPAC event.

(7) OPAC may submit to SVV requests to feature events on the marquee. SVV will attempt to include one OPAC event on the marquee at all times, but this is not guaranteed.

(8) All repairs and maintenance issues are to be completed in accordance with building and safety codes. OPAC is not authorized to make repairs or modifications at any time. Upon noticing the need for specific repairs or modifications OPAC board members and staff must immediately notify SVV of such needs. This also applies to operational irrigation and appropriate gardening services to the exterior common areas. SVV will then work with the City to determine best methods for repairs. OPAC board members and staff cannot take these matters directly to City personnel. Further, any requests or inquiries from outside agencies, such as Fire Department, City Maintenance Department, Health, etc., must be immediately directed to SVV.

(9) It is imperative that SVV has exclusive and immediate access to the incoming mailbox. Therefore, SVV will remove and replace the existing mail receptacle. Once the new receptacle is installed, OPAC may elect to have SVV hand-deliver the daily mail, or to obtain an off premises post office box.

(10) SVV will re-key all locks on the premises that were changed by OPAC without authorization. This also applies to all alarm codes and security cameras.

(11) SVV must have total control over any incoming telephone landlines coming to Oxnard Performing Arts & Convention Center.

(12) SVV must have total access to the Box Office area, and therefore OPAC must vacate that area immediately.

(13) SVV must also have total control to the display windows that face the parking lot near the box office area.

Re: [EXTERNAL]Re: Reservation of the OPAC - Oxnard Room

1 message

Harrison, Terrel <terrel.harrison@oxnard.org> Tue, Aug 20, 2024 at 10:00 AM
To: Luanne Nast <luannenast@gmail.com>

Luanne,
Didn't they work directly with you guys before?

Terrel Harrison
Cultural and Community Services Director
City of Oxnard
805-385-7995 (P)

On Tue, Aug 20, 2024 at 9:55 AM Luanne Nast <luannenast@gmail.com> wrote:
Hi Terrel,

Please read the email below, which Richard received from the Oxnard School District, and keep in mind that this comes after Richard had already worked out 100% of the details for this event. Another example of sabotage for Carolyn and company…

Luanne Nast
Sterling Venue Ventures
luannenast@gmail.com
818.636.5339-cell
888-645-5006-office
The Canyons Agoura HIlls & Montclair
The Saban in Beverly Hills
The Libbey Bowl in Ojai
Oxnard PACC

Begin forwarded message:

From: Richard Belloff <richard@wmmts.com>
Subject: Fwd: [EXTERNAL]Re: Reservation of the OPAC - Oxnard Room
Date: August 16, 2024 at 4:00:31 PM PDT
To: Luanne Nast <luannenast@gmail.com>

Richard Belloff
General Manager
Oxnard Performing Arts Center
Libbey Bowl, Ojai
818-519-3776

Begin forwarded message:

From: "Chinas, Mayte" <mchinas@oxnardsd.org>
Date: August 16, 2024 at 3:07:17 PM PDT
To: Richard Belloff <richard@wmmts.com>
Cc: "Ruvalcaba, Teresa" <truvalcaba@oxnardsd.org>, Jose Becerra <jose@theopac.org>
Subject: Re: [EXTERNAL]Re: Reservation of the OPAC - Oxnard Room

Hello Mr. Richard,

Hope this email finds you doing well.

I would like to follow up with you regarding our request of a quote for the date of April 3rd , 2025.

I was informed of the process of reserving the smaller rooms at the OPAC would happen with Jose Becerra. Since we were instructed that we need to contact the corresponding personal for reservations, I will need to cancel any reservation request I had made with you for this date, April 3rd , 2025 for the use of the Oxnard Room.

I have contacted Jose already and we will be reserving the Oxnard room with him for the date of April 3rd , 2025.

Thank you, I appreciated your help when it came to the help on this reservation months back when I contacted you. We look forward to working with you soon in the future.

Kind Regards,
Mayte Chinas
Secretary for

Manager of Equity, Family, and Community Engagement
Oxnard School District
1051 South A Street
Oxnard, CA 93030
(805) 385-1501 ext. 2351
mchinas@oxnardsd.org

Equity, Family and Community Engagement

From: Richard Belloff <richard@wmmts.com>
Sent: Tuesday, July 9, 2024 5:13 PM
To: Chinas, Mayte <mchinas@oxnardsd.org>
Cc: Ruvalcaba, Teresa <truvalcaba@oxnardsd.org>
Subject: Re: [EXTERNAL]Re: Reservation of the OPAC - Oxnard Room

CAUTION: This email originated from outside of the Oxnard School District. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Enclosed is the rental agreement for April 3, 2025. Let me know if you have any questions.

Thank you

Richard Belloff
General Manager
Oxnard Performing Arts Center
Libbey Bowl Ojai
richard@wmmts.com
818-519-3776

On Jul 5, 2024, at 12:04 PM, Chinas, Mayte <mchinas@oxnardsd.org> wrote:

Hello Mr. Richard,

I wanted to touch base with you regarding the rental agreement for the requested date and time I had reached out to you about.

Event Details:

We would like to reserve the Oxnard Room at the OPAC for an upcoming event, Cesar Chavez Celebration Event. The event is planned to happen on April 3rd , 2025 with event times of 6pm-8pm. We would like to book for the day of the event with a start of set up time of 3pm.

Please advise when I should receive the rental Agreement/Invoice.

Thank you in advance for your help on this request.

Kind Regards,

Mayte Chinas

Secretary for
Manager of Equity, Family, and Community Engagement
Oxnard School District
1051 South A Street
Oxnard, CA 93030
(805) 385-1501 ext. 2351
Mchinas@oxnardsd.org
<Outlook-qakgwsxp.png><Outlook-54gp23yb.png>

Manager of Equity, Family, and Community Engagement
Oxnard School District
1051 South A Street
Oxnard, CA 93030
(805) 385-1501 ext. 2351
mchinas@oxnardsd.org

Equity, Family and Community Engagement

From: Richard Belloff <richard@wmmts.com>
Sent: Tuesday, July 9, 2024 5:13 PM
To: Chinas, Mayte <mchinas@oxnardsd.org>
Cc: Ruvalcaba, Teresa <truvalcaba@oxnardsd.org>
Subject: Re: [EXTERNAL]Re: Reservation of the OPAC - Oxnard Room

CAUTION: This email originated from outside of the Oxnard School District. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Enclosed is the rental agreement for April 3, 2025. Let me know if you have any questions.

Thank you

Richard Belloff
General Manager
Oxnard Performing Arts Center
Libbey Bowl Ojai
richard@wmmts.com
818-519-3776

On Jul 5, 2024, at 12:04 PM, Chinas, Mayte <mchinas@oxnardsd.org> wrote:

Hello Mr. Richard,

I wanted to touch base with you regarding the rental agreement for the requested date and time I had reached out to you about.

Event Details:

We would like to reserve the Oxnard Room at the OPAC for an upcoming event, Cesar Chavez Celebration Event. The event is planned to happen on April 3rd , 2025 with event times of 6pm-8pm. We would like to book for the day of the event with a start of set up time of 3pm.

Please advise when I should receive the rental Agreement/Invoice.

Thank you in advance for your help on this request.

Kind Regards,

Mayte Chinas

Secretary for
Manager of Equity, Family, and Community Engagement
Oxnard School District
1051 South A Street
Oxnard, CA 93030
(805) 385-1501 ext. 2351
Mchinas@oxnardsd.org
<Outlook-qakgwsxp.png><Outlook-54gp23yb.png>

From: Chinas, Mayte <mchinas@oxnardsd.org>
Sent: Thursday, June 27, 2024 9:27 AM
To: Richard Belloff <richard@wmmts.com>
Cc: Ruvalcaba, Teresa <truvalcaba@oxnardsd.org>
Subject: Re: [EXTERNAL]Re: Reservation of the OPAC - Oxnard Room

Good Morning Mr. Richard,

Perfect, I will look forward to your email.

Kind Regards,

Mayte Chinas
Secretary for
Manager of Equity, Family, and Community Engagement
Oxnard School District
1051 South A Street
Oxnard, CA 93030
(805) 385-1501 ext. 2351
Mchinas@oxnardsd.org

From: Richard Belloff <richard@wmmts.com>
Sent: Thursday, June 27, 2024 6:56 AM
To: Chinas, Mayte <mchinas@oxnardsd.org>
Cc: Ruvalcaba, Teresa <truvalcaba@oxnardsd.org>
Subject: [EXTERNAL]Re: Reservation of the OPAC - Oxnard Room

CAUTION: This email originated from outside of the Oxnard School District. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good Morning Mayte,

The date you requested is available. I will forward asap a rental agreement and invoice for the event. Please sign and return the rental agreement and send the invoice to accounting.

Nice to meet you,

Richard Belloff
General Manager
Oxnard Performing Arts Center
Libbey Bowl Ojai
richard@wmmts.com
818-519-3776

On Jun 26, 2024, at 4:06 PM, Chinas, Mayte <mchinas@oxnardsd.org> wrote:

Hello Mr. Richard,

I would like to introduce myself; my name is Mayte Chinas, I am the new Secretary in the Educational Services Department at Oxnard School District. I will be working beside Teresa Ruvalcaba, Manager of Equity, Family, and Community Engagement at Oxnard Elementary School District.

We would like to reserve the Oxnard Room at the OPAC for an upcoming event, Cesar Chavez Celebration Event. The event is planned to happen on April 3rd , 2025 with event times of 6pm-8pm. We would like to book for the day of the event with a start of set up time of 3pm.

Please advise what is the process to request and reserve the OPAC and OPAC venue rooms.

Your assistance is greatly appreciated.

Kind Regards,

Mayte Chinas
Secretary for
Manager of Equity, Family, and Community Engagement
Oxnard School District
1051 South A Street
Oxnard, CA 93030

(805) 385-1501 ext. 2351
Mchinas@oxnardsd.org
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ATTACHMENT 14

CITY OF OXNARD CALIFORNIA

Estrada, Julie <julie.estrada@oxnard.org>

Fwd: Oxnard Performing Art Corp September Rent

1 message

Harrison, Terrel <terrel.harrison@oxnard.org> Tue, Oct 15, 2024 at 3:05 PM
To: "Estrada, Julie" <julie.estrada@oxnard.org>

Please add this issue…

Terrel Harrison
Cultural and Community Services Director
City of Oxnard
805-385-7995 (P)

---------- Forwarded message ---------
From: **RICHARD BELLOFF** <drbelloff@icloud.com>
Date: Fri, Oct 11, 2024 at 12:58 PM
Subject: Oxnard Performing Art Corp September Rent
To: Terrel Harrison <terrel.harrison@oxnard.org>
CC: Luanne Nast <luannenast@gmail.com>, Lance Sterling <lance@wmmts.com>

Hello Terrel,

Enclosed is the rent from the Oxnard Performing Arts Center Corporation for the month of September. They owe the City of Oxnard some extra funds which they short paid again. I know this because the customer hired us to bartend and had us stay an extra hour, for a total of three hours. Oxnard Performing Arts Center Corp. only paid the City for two hours. I will forward payment after I collect it.

Best,

Richard Belloff
General Manager
Oxnard Performing Arts Center
Libbey Bowl Ojai
drbelloff@icloud.com
818-519-3776

Oxnard Performing Arts Center corporation September 2024 rent.pdf
1830K

ABOUT STERLING VENUE VENTURES:

Lance Sterling isn't just "in the music business," he's been a key player in the development of the industry since 1982, and Sterling Venue Ventures has played an integral part in the evolution of live music entertainment for 25 years.

Most recently, Lance Sterling has been named the new Chief Entertainment Officer for the Dolby Theatre in Hollywood and is in talks with Met Life Stadium and the American Dream Mall about opening a new 3500 seat venue in East Rutherford, New Jersey.

Sterling Venue Ventures produces more concerts in Southern California than any other single promoter. In just the past two years SVV has produced 1757 concerts, in the area, generating well over $16,000,000 in ticket sales. The company owns The Canyon Agoura Hills and The Canyon Montclair, operates The Saban Theatre in Beverly Hills and Oxnard Performing Arts Center, and presents concerts at Redondo Beach PAC, among other city-owned venues. The company also owns and operates Sterling Steak & Lounge in Park City, UT.

SVV concerts feature national touring acts of all genres, from Foo Fighters to Smokey Robinson to Paul Anka to Styx, Pat Benatar, Kenny Loggins, Rick Springfield, and America, to Stone Temple Pilots, Vampire Weekend, The Neighborhood, 311 and more.

SVV also takes an active role in developing new and upcoming talent. Just some of the acts that got their start on SVV stages include Brad Paisley, Imagine Dragons, Ben Harper, Panic At The Disco, and One Republic.

The SVV team is comprised of an experienced group of industry professionals covering all aspects of live music, from booking to marketing, ticketing, production, concessions, and security.

That expertise pays off in a big way: 200,000 unique views per month on the www.wmmts.com website, 127,000+ in the SVV email database, immense social media presence, nearly 100,000 people through the doors each month.

The SVV team is proud that our efforts culminate in bringing live music to the masses, and the particular areas where people live, shop, work…and enjoy.

OVERVIEW OF THE ORGANIZATION INCLUDING LEGAL STRUCTURE, PRINCIPAL OFFICERS & ORGANIZATION STRUCTURE

Sterling Venue Ventures is a single entity Limited Liability Corporation. The LLC's manager is Lance C Sterling. SVV Tax ID: 95-4810799

RESUMES OF KEY EXECTIVE PERSONNEL AND STAFF

LANCE C. STERLING

As President and Chief Executive Officer of Sterling Venue Ventures, Lance Sterling owns over 40 years of experience in the entertainment field. Truly, he is an architect in the world of live entertainment. Sterling has pioneered the concept of concert routing in Southern California by establishing individual markets with a 30-mile radius, breaking up Southern California into ten viable markets as opposed to one. Previously, talent was only allowed to play one show in Los Angeles, with a 100 mile and 90-day radius clause. By establishing multi-day runs in Southern California, Sterling has put an end to the monopolistic practice of 100-mile radius clauses imposed by Live Nation, AEG, Goldenvoice, and Nederlander.

25 years ago, Sterling opened the doors of The Canyon Agoura Hills, and subsequently has opened in eight additional markets (Beverly Hills, Montclair, Burbank, Santa Clarita, Ojai, Oxnard, Redondo Beach, and Park City, UT) booking nearly 1700 concerts a year in Southern California, which is the largest number of concerts produced annually by a single entity in the state. Sterling has also partnered with Mack10 on National R&B tours. Over the past 40 years, Sterling has produced approximately 60,000 concerts and 50 million plus customers have gone through his venues' doors. Additionally, Sterling has booked over 100 million in Special Events, and his Charity Fundraising Program has contributed over 26 million dollars to worthy causes.

Two years ago, Sterling expanded into Utah, where he owns the Sterling Steak & Lounge, and operates the New Park Amphitheater in Park City. Most recently, he was named Chief Entertainment Officer of the Dolby Theatre in Hollywood.

What's more, Lance has established healthy and hearty working relationships with a vast number of area businesses and schools by making the Sterling venues available for charity fundraisers at least once a month. Over 500 school fundraisers have been held at SVV venues, which have helped local schools to the tune of $25,000,000.00 in funds raised. Plus, Sterling venues have hosted over 100 school special events, award banquets, corporate parties, etc., over the years, thus creating a bevy of satisfied and civic-minded customers.

Sterling is one of the founders of the House Of Blues organization. He designed, opened and operated over 13 successful venues in markets as diverse and powerful as Boston, New Orleans, Los Angeles, Orlando and Chicago. Additionally, Sterling built out and then operated the 88,000 sq. ft. Atlanta-based Tabernacle (from 1997- 2000), which was voted by *Rolling Stone* magazine: "Best Place to See Live Music." Likewise thanks to this successful venture, Lance was credited by the Atlanta Journal Constitution with saving downtown Atlanta!

CARYN STERLING

Discovering JoJo Siwa on the heels of her first season on Lifetime's Dance Moms, Caryn had an immediate and clear vision for JoJo beyond her amazing talents as a dancer, envisioning her becoming a major and powerful brand and persona. With that vision in mind, Caryn set out to create longevity for JoJo as an entrepreneur, consumer products licensor, inventor, and a role model with anti-bullying message throughout, as well as a triple threat entertainer, social media influencer and content creator building a "platform with a purpose." In a short first six months as manager, Caryn had JoJo in the offices of executes across the landscape of the entertainment industry from coast to coast, and set in motion initiatives including brand identity, logos, trademarks, featured TedX speaker, branded merchandise, licensing and distribution deals including a private line in 1000 Claires stores, publishing, songwriting/music video execution and release, social responsibility initiatives, independently produced content and treatments with even more brewing in the creative vault. Five years later, JoJo Siwa was estimated to be a billion-dollar brand.

With over 22 years of experience in the entertainment industry, Caryn has an arsenal of skills and network of executive level relationships to operate successfully at the intersection of consumer product design, sourcing, manufacturing, distribution, patents, trademarks, private label design, licensing, marketing, brand development, talent management and consulting.

From her New York City business roots to a core spot with House Of Blues at the 1996 Olympics, Caryn never turned back. Directing Sales, Marketing and sponsorship efforts across all venues, she was also a key team player in opening six new House of Blues venues, and a Super Bowl halftime show in New Orleans.

After meeting her soul mate and eventual husband and business partner, Lance and Caryn Sterling co-founded Sterling Worldwide Entertainment, Inc., which spawned Sterling Venue Ventures, LLC, which owns and operates concert/entertainment venues, and has established Lance Sterling as the #1 venue developer /owner / operator and independent promoter west of the Mississippi.

Caryn's accomplishments have been featured in numerous media, including Forbes, Rolling Stone, Entertainment Weekly, and more.

DANA MORRIS

Dana joined Sterling Venue Ventures in January of 2017 after over 30 years of event and venue management. After starting at the Rose in Pasadena he was quickly promoted to be GM of the Saban in Beverly Hills, a 2000 seat historic landmark theater. He greatly increased the rental business from $150-200k a year to over $2.5 Million a year bringing in such clients as Disney, Apple TV, Fox, Universal and other film companies for premieres and screenings. He has also greatly increased the rental business with international concerts, speakers, podcasts, film shoots, galas and theatrical performances.

In 2020 he was promoted to VP of Operations for Sterling Venue Ventures and oversees hiring and managing all the venue managers. In addition, he oversees the special event sales staff for the entire company and has increased the sales to $5 million a year and growing. He is working on expanding the sales to newly acquired venues, such as the Dolby Theatre in Hollywood. His goal is to increase the annual sales to over $10 million in rentals and special events in 2025.

LUANNE NAST

Luanne Nast is an accomplished veteran of the music industry and is fully integrated in the entertainment field, having contributed to the career development of artists like Michael Bolton, Bryan Adams, Pearl Jam, Night Ranger, Foreigner, Melissa Etheridge, Damn Yankees, Bruce Hornsby, Joan Jett and many others. Additionally, her own artist management company, Luna Unlimited, represented actress Katie Cassidy, singer/songwriter Jeremy Kay, and Stryke 5, who toured the nation as opening act for Britney Spears.

In her 14 plus years at The Network Magazine Group, as VP/Managing Editor, Ms. Nast worked closely with every major record company in developing advertising campaigns for their rock and pop artists, many of whom are still touring, and still grace the charts today.

Over the past 21 years, Ms. Nast brought her vast experience to Sterling Venue Ventures, where she has overseen the opening and development of Canyon venues in Agoura Hills, Las Vegas, Beverly Hills, Ojai, Oxnard, Montclair, and Santa Clarita. She continues to head up Development, Marketing and Sponsorship operations for the company.

DAVE HEWITT

Dave Hewitt is a Licensed Talent Agent with the ability to buy and sell talent at every level, in addition to being a Talent Agency Owner and a VP at Sterling Venue Ventures. At SVV he specializes in contracts, building theme nights and tribute acts, as well as handling settlement procedures. He has been with SVV since the company's inception and has assisted in the booking of hundreds of bands. Independently, Hewitt owns and

operates a successful music agency, DMH Enterprises, which works closely with event planners, casinos, parks and fairs across the United States.

ROGER LEBLANC

Roger LeBlanc is an expert in producing live concert events that cross multiple generations and genres; LeBlanc, through his company Romeo Entertainment Group, works in various capacities with well known venues, festivals and events throughout the nation.

In addition to the Sterling venues, Mr. LeBlanc books talent for the KAABOO festival, and venues including The War Memorial in Nashville, The Coach House in Orange County, CA, and several others. Pre-pandemic, Roger and his team were responsible for over $20M in talent booking annually. Roger's company is one of the largest independent music buyers on the United States. IEBA's "Buyer of The Year" in 2016, Mr. LeBlanc was awarded that same honor by the concert industry's leading trade publication, PollStar, in 2015.

COMPLETE AND DETAILED HISTORY OF OUR ORGANIZATION'S FACILITY MANAGEMENT EXPERIENCE

Sterling Venue Ventures solely owns and operates The Canyon Agoura Hills, The Canyon Montclair, and Sterling Steak & Lounge in Park City, UT. In addition to presenting and hosting concerts and special events, these venues feature full-service kitchens with appropriate staffing to offer full dinner service at all events. Of course, SVV also handles all facets of production, promotion, security, ticketing, box office, ushers, hospitality, building maintenance, upkeep and repairs.

Since 2013 SVV has successfully operated the 1893 seat Saban Theatre in Beverly Hills. As venue operator, SVV personnel handle all aspects of management; booking our own self-promoted concerts, working with outside organizations who wish to host concerts, special events, film shoots, TV tapings etc. With regard to concerts and special events, SVV handles 100% of the production, promotion, security, ticketing, box office, ushers, hospitality, and concessions. Likewise, SVV handles venue maintenance, upkeep and repairs.

From 2016 – 2024, SVV worked with the City of Ojai to produce up to 24 concerts per year at the Libbey Bowl, a 1200 seat outdoor venue. For these concerts SVV provided 100% of the production, promotion, ticketing, box office, ushers, hospitality and concessions.

In early 2020, the City of Oxnard contracted with SVV to operate the Oxnard Performing Arts & Convention Center. The venue features a 1600 seat auditorium, two special event rooms with capacities of 500 and 250 respectively, and four small classrooms, as well as a sprawling courtyard. Of course, due to the on-set of the Covid-19 pandemic, SVV was unable to present concerts inside the venue for the first year and a half of that agreement. In a way, that worked to the organization's advantage. The venue had been constructed in the 1950s and was in need of numerous upgrades: air conditioning, drainage, bringing kitchen and bar areas up to current code, water heater replacement, theatre-door replacement, installation of a new LED marquee, courtyard cleanup and general maintenance. During this time period, SVV was able to host several "Drive-In" concerts, and smaller events on the patio. Since 2022, SVV now produces over 100 concerts and/or special events in the auditorium.

Sterling Venue Ventures has also produced concerts at the city-owned Starlight Bowl in Burbank, which has a capacity of 5000. In addition to producing their own concerts at the venue where SVV handled 100% of the production, promotion, security, ticketing, box office, ushers, and hospitality, SVV has also provided sound and lighting for the City of Burbank's Summer Concert Series.

More recently, SVV has produced a number of concerts at the Redondo Beach Performing Arts Center, in which they handle 100% of the production, promotion, security, ticketing, box office, ushers, hospitality, and concessions.

MARKETING / OUTREACH

Sterling Venue Ventures boasts vast experience in multi-faceted marketing. SVV owns an email data base of over 127,000+, and that number is constantly expanding. SVV has the ability to blast the same message to the entire base, or to break that data base into segments based on location, preference of musical genre, ticket purchase history, etc.

SVV's weekly print advertisements are seen in 40+ newspapers across Southern California, and our www.wheremusicmeetsthesoul.com website garners in excess of 200,000 views per month. Each of the SVV venues features numerous video screens which broadcast upcoming events at all locations, and are seen by the thousands upon thousands of people who come through SVV's doors each month**.** All this coupled with SVV's radio and TV advertising, and a strong presence on social media (Facebook, Instagram, X, TikTok, Google Advertising), rounds out the package.

SVV's strong working relationship with AXS ticketing also offers advantages and marketing opportunities to reach a vast number of concert ticket buyers across the state. Though SVV retains a relationship with AXS, the company also works with Ticketmaster, Events.com and various ticket discounting agencies as needed, including GroupOn and GoldStar.

Further, SVV staffers are experts at hitting the streets with posters, flyers, and strategically placed complimentary tickets to help promote the concerts, and get people into the venues.

In addition, SVV venues are well-known for their community outreach, and in particular helping local schools and charitable causes raise millions for their deserving causes. To accomplish this feat, SVV collaborates with artists who are performing at their venues to donate tickets to upcoming shows so that schools, youth organizations and nonprofits can sell them and keep the cash. In addition, SVV also provides special offers to school activities and clubs to host special events at a discounted rate. Perhaps needless to say, these actions create goodwill in the community, and appreciation for SVV venues, which helps spur sales and interest in the company's commercial concert events.

INDUSTRY& CITY GOV'T RELATIONSHIPS

For the past 20+ years, Sterling Venue Ventures has worked successfully with every major talent agency in existence today: WME, CAA, UTA, APA, AGI, MPI, Paradigm, TKO, Artists Worldwide, Paradise Artists, Mob Agency, Reliant, and others.

Sterling Venue Ventures has ample staffing to draw from, which is more than capable to handle the influx of a large concert audience. Staff includes experienced sound and lighting techicians, stagehands, security personnel, box office personnel, marketing staff – complete, turn-key event staff. Each event is staffed according to staffing guidelines, with respect to the size of the various events, already in place at Sterling Venue Ventures. Additionally, Sterling Venue Ventures has access and the ability to permanently install a front of house sound system, monitoring for the stage, and a permanent lighting pan to allow competitive offers against the major competition of Live Nation, AEG (and its subsidiary Goldenvoice).

SVV's history of successful collaborative relationships with City/Municipal governments is explamary. From 2016 to 2024, Sterling Venue Ventures worked closely with the City Of Ojai in producing concerts at The Libbey Bowl. Similarly, SVV worked with the City of Burbank and its Starlight Bowl. In fact, SVV was hired

by the City of Burbank to upgrade the facility to bring it up to current standards and quality, even remodeling and adding air conditioning to the backstage green rooms. Further, SVV works with the City of Oxnard on a daily basis in operating, upgrading and maintaining the Oxnard Peforming Arts & Convention Center.

SVV works closely with the City of Beverly Hills at the Saban Theatre location, hosting special events for the City such as the annual Chinese New Year event, the City's 100 year Anniversary Celebration, etc.

In February of 2020 Sterling Venue Ventures teamed up with the City of Oxnard with an Agreement to operate the Oxnard Performing Arts & Convention Center. The venue had been under used and under-appreciated, but with Sterling at the helm, the Center has been repaired, upgraded and restored to prominence in the entertainment marketplace.

All SVV locations work closely with local police and fire departments. In fact, a few years ago, The Canyon Agoura Hills hosted a benefit for first responders following the devasting wildfires that ravaged Ventura County and surroundning areas. The benefit received television coverage on no less than three Los Angeles television stations.

SVV supports area print, radio and TV media with advertising, and occassionally offers special discounts and pre-sales for local residents.

FUTURE GOALS

Due to the increasing cost of labor, salaries, sales taxes, the tightening entertainment dollar and the evolution of the live entertainment industry, SVV intends to move away from club/restaurant – type venues to concentrate on the more efficient and higher yielding 2000 to 4000-seat theatres and entertainment centers. Toward that end, expansion plans are currently in the works for East Rutherford, New Jersey and Miami, Florida, among other competitive marketplaces.

SVV is a one-stop shop, complete with a first-rate, top-notch staff with 25+ years' experience in booking / producing / promoting and operating concert venues. The organization looks forward to new challenges and to applying its expertise and commitment to its existing owned and affiliated venues, as well as those currently in development and beyond.

FOR MORE INFORMATION

Please visit our website https://wheremusicmeetsthesoul.com for a look at upcoming events.

OXNARD PERFORMING ARTS CENTER NON-PROFIT

Our mission: To foster and serve our community through inclusive programming, cultural and artistic exchange, and developing people-centered spaces.

HONORARY BOARD

Anderson .Paak

Jose Cano

Cola Boyy
In Memoriam

Don Lombardi

Carmen Ramirez
In Memoriam

Irma Lopez

BOARD OF DIRECTORS

Gary Davis
Chairperson
Secretary

Carol Flores-Beck
Vice-Chairperson

Brandon Wilks
Treasurer

Gary Blum
Chairperson Emeritus

Michael Doty

Teo Lopez

Patrick Mullin

Leonard Shulman
Treasurer Emeritus

Suki Sir

Vincent Stewart

EXECUTIVE DIRECTOR

Carolyn Merino Mullin

September 9, 2024

Mr. Alex Nguyen, City Manager
City of Oxnard

Dear Alex:

On behalf of the OPAC Corporation Board, I respectfully request an appointment for a meeting with you regarding the attached *Proposal*. Attending this meeting and representing the OPAC Board would be Board Chairperson Gary Davis, Board Treasurer Brandon Wilks, and Board member and Treasurer Emeritus Len Shulman.

For our calendars, we would like to meet with you anytime on Friday, September 13th, anytime on Monday, September 16th, or late afternoon on Tuesday, September 17th.

We look forward to your reply and meeting with you.

Sincerely,

Gary Davis

Gary Davis, Chairperson
Oxnard Performing Arts Center Corporation Board

800 Hobson Way
Oxnard, CA 93030

805-385-8147

info@TheOPAC.org

TheOPAC.org

OXNARD PERFORMING ARTS CENTER NON-PROFIT

March 20, 2024

Our mission: To foster and serve our community through inclusive programming, cultural and artistic exchange, and developing people-centered spaces.

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Chairperson Emeritus

Leonard Shulman
Treasurer Emeritus

Michael Doty

Joy MacKinnon

Doranda Martin

Patrick Mullin

Suki Sir

Vincent Stewart, Th.D.

EXECUTIVE DIRECTOR

Carolyn Merino Mullin

To: Terrel Harrison
City of Oxnard Cultural and Community Services Director

From: Gary Davis, Chairperson and Secretary
OPAC Corporation Board

Terrel, at our meeting of February 12th, OPAC Vice Chairperson Carol Flores-Beck and I overviewed the priorities and objectives of the OPAC Corporation Board as we look ahead to 2025 and after the expiration of the current Agreement between the City and Sterling Venue Ventures.

We explained that, as a first priority, should SVV decide not to continue affiliation with the City for the operation of the OPAC theater/auditorium, or, if the City should decide to re-advertise for proposals for the management of the theater/auditorium from 2025 onward, the OPAC Corporation Board would like to be considered for this service to the City.

However, if the City leadership decides to continue the services of SVV as the operator of the theater/auditorium after the expiration of the current Agreement, then the OPAC Corporation Board wishes to continue its services to the City and to our community under a new Agreement with the City – separate and distinct from any Agreement with SVV.

You recommended that we put these intentions in writing, and Ms. Flores-Beck and I agreed to do so in a "concept paper" for your consideration. We look forward to your feedback regarding the attached proposal.

The City's leadership has expressed its desire to operate the PACC to support cultural development for the Oxnard community, to provide a location for local and regional events for individuals, organizations, and business, and to promote and provide entertainment, recreational and cultural events and activities for Oxnard residents. As a nonprofit, public-benefit organization, the OPAC Corporation Board continues to pledge its support for this City objective. The OPAC Corporation Board also looks forward to continued collaboration with City leaders to advance the Vision of our non-profit organization, which is to be a beacon and catalyst for advancing the arts, enhancing quality of life, and promoting cultural development.

Looking forward to your reply.

Gary Davis

800 Hobson Way
Oxnard, CA 93030

805-385-8147

info@TheOPAC.org

TheOPAC.org

OXNARD PERFORMING ARTS CENTER NON-PROFIT

PROPOSAL

Please consider the requests and recommendations below as the foundation of a new Management and Operations Agreement between the City of Oxnard and the Oxnard Performing Arts Center Non-Profit Corporation Board (OPAC Board). This Agreement would be made and entered into effective March 1, 2025. The duration of this Agreement would be at the discretion of the City; the OPAC Corporation Board would be agreeable to a 2, 3 or 5 year Agreement.

PURPOSE

The purpose of this proposal is to outline certain roles and responsibilities of the City and the non-profit OPAC Corporation Board with respect to the Community Center ballrooms, meeting rooms, and adjacent spaces in order to advance a joint vision of an improved quality of life and cultural respect and awareness among the citizens of our community.

RECITALS

WHEREAS, the City owns and controls the Oxnard Performing Arts & Convention Center located at 800 Hobson Way, Oxnard, California 93030; and

WHEREAS, the Community Center within the Oxnard Performing Arts & Convention Center contains 2 ballrooms, 5 classrooms, 2 courtyards, 2 office spaces, 1 commercial kitchen, several storage areas, and an employee parking lot, and

WHEREAS, the City desires to operate the Community Center as a community resource to support cultural development for the Oxnard community, provide a location for local and regional events for individuals, organizations, and business, and to promote and provide entertainment, recreational, and cultural events and activities for Oxnard residents; and

WHEREAS, the City desires to secure professional booking and event services for the Ventura and Oxnard ballrooms and meeting rooms, and the OPAC Board and staff are qualified, willing, and have the capacity to provide such services to the City.

In consideration of the mutual agreements listed below, the City and the non-profit OPAC Corporation Board agree as follows:

ROLES AND RESPONSIBILITIES

1. **Event Expenses.** The OPAC Board shall be responsible for event costs, including but not limited to costs of goods, entertainment, labor, marketing costs, janitorial services, and procuring and maintaining appropriate event insurance.
2. **Facility Preparation.** The OPAC Board shall be responsible for providing adequate event facility preparation, sufficient sanitary facilities, clean-up, event security, and any repairs required as a result of property use. At the beginning of each year or as often as necessary, the OPAC Board's lead staff will meet with the City's Public Works Director or designee to agree upon standards for the foregoing facilities and activities.
3. **Janitorial Services.** The OPAC Board shall monitor the two ballrooms and meeting rooms, including restrooms, and keep them clean and supplied with necessary janitorial products during each event, including the cleaning of the restrooms prior to and after each event.

4. **Liability and Workers Compensation Insurance.** The OPAC Board shall provide Liability and Workers Compensation Insurance for its employees, as well as errors and omissions insurance for its Board members.

5. **Furniture, Fixtures, and Equipment.** The OPAC Board may, at its own expense, furnish and set up fixtures and equipment necessary for the operation and maintenance of the ballrooms and meeting rooms. The OPAC Board will also install sound and lighting systems in the ballrooms and meeting rooms commensurate with the projected needs of events booked for these facilities.

6. **Utilities.** The City shall pay ongoing utility expenses, including water, sewer, trash, gas, and electricity.

7. **Maintenance.** The OPAC Board shall be responsible for maintenance of the two ballrooms and meeting rooms, including ground maintenance of the courtyards and interior spaces of the campus, and alarm monitoring services during all times the ballrooms and meeting rooms are not in use. The City will maintain the exterior grounds of the complex to ensure that its curb appeal remains attractive to users of the theater/auditorium, ballrooms, and meeting rooms.

8. **Marquee.** The OPAC Board shall have reasonable access to the marquee for announcements to the public of upcoming ballroom and meeting room events. The City may use the marquee at its discretion.

9. **ADA Compliance.** The City shall be responsible for the two ballrooms and meeting rooms to comply with all ADA regulations for restrooms and property access.

10. **Parking.** The OPAC Board shall share expenses with the operator of the theater/auditorium operator for the cleaning of the parking lot. The OPAC Board shall share access and use of the parking lot with the operator of the theater/auditorium. The City shall slurry coat and restripe the parking lot.

11. **HVAC/Electrical and Plumbing.** The City shall ensure that all existing HVAC, electrical systems, and plumbing systems are maintained in good operating condition.

12. **Capital Replacement and Capital Improvement.** The City shall be responsible for all Capital Replacement and Capital Improvements to the property.

13. **Fundraising.** The Board, the Executive Director, and the fundraising staff will use their best efforts to continuously develop and increase contributed revenues to fund the non-profit's programs and operational responsibilities.

RENTAL RATES

14. **Rental Rates for OPAC Board Events.** For each event the OPAC Board conducts in the two ballrooms and meeting rooms, the Board will pay the city 50% of the rental rate schedule adopted by the City Council for the use of the respective ballroom(s) or meeting room(s). The OPAC Board shall remit rental payments to the City no more than thirty (30) days after each event.

15. **Rental Rate Fee Schedule.** The Rental Rate Fee Schedule may be reviewed and revised in mutual consultation and agreement between the City and the OPAC Board.

16. **Guaranteed Annual Rental Rate Reimbursement to the City.** The OPAC Board shall guarantee the City an annual rental payment of $100,000.

17. **Restoration Fund.** Any rental fees collected above the $100,000 annual guarantee shall go into a restoration fund to be used for capital improvements in the two ballrooms and meeting rooms to be done in consultation with and approval by City staff.

NON-OPAC BOARD EVENTS

18. **City Events.** If the OPAC Board has booked an event on a date on which the City desires to use the ballrooms and/or meeting rooms, OPAC staff and City staff will work together to resolve the conflict.

19. **Exclusive Control**. Aside from City events, the OPAC Board shall maintain exclusive control of the operation and management of the Community Center ballrooms and meeting rooms.

GENERAL PROVISIONS

20. **Permits.** The City represents and warrants that all permits required for the operation of the ballrooms and meeting rooms are in place and active. With the support of the City, the OPAC Board will acquire an ABC license for alcoholic beverage sales and consumption.

STRATEGIC PRIORITIES OF THE CITY OF OXNARD

The OPAC Board intends for this proposal to support the City's adopted *Quality of Life* strategy, which is to build relationships and create opportunities within the community for safe and vibrant neighborhoods, which will showcase the promising future of Oxnard. Goal 3 of the *Quality of Life* strategy is to strengthen neighborhood development and connect City, community, and culture, and the OPAC Board embraces that goal.

March 20, 2024

AGREEMENT FOR OPERATIONS OF THE OXNARD PERFORMING ARTS AND CONVENTION CENTER AUDITORIUM

This AGREEMENT is made and entered into on this 18th day of February, 2020 by and between STERLING VENUE VENTURES, LLC. , a California Limited Liability Corporation ("SVV"), and THE CITY OF OXNARD, a California municipal corporation ("CITY"), hereinafter referred to individually as "PARTY" or collectively as the "PARTIES."

RECITALS

WHEREAS, the CITY owns and controls the Oxnard Performing Arts and Convention Center ("PACC") located at 800 Hobson Way, Oxnard, California 93030; and

WHEREAS, the CITY desires to operate PACC as a community resource to support cultural development for the Oxnard community, provide a location for local and regional events for individuals, organizations and businesses, and to promote and provide entertainment, recreational and cultural events and activities for Oxnard residents; and

WHEREAS, the CITY desires to secure professional Event services for the PACC Auditorium, and SVV is qualified and willing to provide the professional Event services.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, CITY and SVV agree as follows:

ARTICLE 1 DEFINITIONS

1.1 **BAND COSTS** – means any and all costs associated with live entertainment at an EVENT.

1.2 **CAPITAL IMPROVEMENT** – means the installation, construction or reconstruction of public improvements.

1.3 **CAPITAL REPLACEMENT** – means the replacement of parts or portions of public improvements, such as buildings, structures, pavement, and the like, which have met or exceeded their prescribed life cycles or which have been damaged by accident, acts of third parties, weather and other acts of nature and the like, requiring significant outlays of capital.

1.4 **CITY EVENT** – means any presentation, show, performance, showcase or any other live entertainment funded and organized by a CITY Department held at the PACC AUDITORIUM.

1.5 **EVENT**- means any presentation, show, performance, showcase or any other live entertainment booked by SVV hosted at the PACC AUDITORIUM.

1.6 **LABOR COSTS**- means any and all direct and indirect costs associated with staffing any event at the PACC AUDITORIUM.

COUNCIL APPROVED
2/18/2020 22(1)
DATE

1.7 **MAINTENANCE** – means the routine and customary care and replacement of grounds, buildings, lighting, and pavement, and the like, not requiring significant outlays of capital.

1.8 **PACC** – means the Oxnard Performing Arts and Convention Center, located at 800 West Hobson Way, Oxnard, California 93030.

1.9 **PACC AUDITORIUM** – means the facility, labeled "Auditorium," depicted in **"Exhibit A"** of this Agreement.

1.10 **PACC PROPERTY** – means the Oxnard Performing Arts and Convention Center property as depicted in **"Exhibit A"** of this Agreement.

ARTICLE 2 TERM OF AGREEMENT

2.1 SVV shall exclusively operate the Oxnard Performing Arts Center Auditorium ("PACC AUDITORIUM"), as depicted in **"Exhibit A,"** attached hereto and incorporated by this reference, from March 1, 2020 until March 1, 2025.

2.2 Unless otherwise terminated, this Agreement may be extended by up to an additional five (5) years by mutual agreement in writing between the City and SVV, subject to City Council approval.

ARTICLE 3 ROLES AND RESPONSIBILITIES

3.1 **Minimum Bookings.** SVV shall book and operate a minimum of fifty (52) EVENTS, not including CITY EVENTS per calendar year at the PACC AUDITORIUM. SVV shall make best efforts to book and operate one hundred and four (104) shows per calendar year. SVV EVENTS will consistently include acts that appeal to a broad spectrum of the community.

3.2 **Event Expenses.** SVV shall be responsible for EVENT costs, including but not limited to: Costs of goods, BAND COSTS, LABOR COSTS, concessions expenses, marketing costs, janitorial services, and procuring and maintaining EVENT insurance.

3.3 **Facility Preparation.** SVV shall be responsible for providing adequate event oriented facility preparation, sufficient sanitary facilities, clean-up, and event security, and user damage and repairs required as a result of PACC PROPERTY use. At the beginning of each year, SVV shall meet with the CITY's Public Works Director (or the person designated by the City Manager) to agree upon standards for the foregoing facilities and activities.

3.4 **Janitorial Services.** SVV shall monitor the PACC AUDITORIUM, including restrooms, and keep it clean and supplied with necessary janitorial products during each EVENT or CITY EVENT. SVV shall also clean the PACC restrooms prior to each

EVENT or CITY EVENT, and shall clean the restrooms after each EVENT or CITY EVENT.

3.5 **Liability and Workers Compensation Insurance**. SVV shall provide Liability and Workers Compensation Insurance for its employees.

3.6 **Furniture, Fixtures, and Equipment**. SVV may, at its own expense, furnish, and set up fixtures and equipment necessary for the operation and maintenance of the PACC AUDITORIUM. SVV shall install sound and lighting systems in the PACC AUDITORIUM commensurate with the projected level of bookings.

3.7 **Utilities.** CITY shall pay ongoing utility expenses, including water, sewer, trash, gas and electricity (collectively, the "Utilities Expenses") at the PACC PROPERTY. However, SVV shall pay any Utilities Expenses in excess of $121,800 in any fiscal year.

3.8 **Maintenance**. SVV shall be responsible for all aspects of the maintenance at the PACC PROPERTY, as depicted in "**Exhibit B**" of this Agreement, including but not limited to grounds maintenance, janitorial services, and alarm monitoring services during all times the PACC AUDITORIUM is not in use. SVV shall ensure facility exterior is adequately maintained prior to scheduled EVENTS, including CITY EVENTS.

3.9 **Possessory Interest Taxes**. SVV shall be responsible for any possessory interest tax imposed on it based upon this Agreement. CITY shall not be responsible for any such possessory interest taxes.

3.10 **Property Insurance**. CITY shall be responsible for property insurance for the PACC Property.

3.11 **Signage.** CITY shall cooperate with SVV to ensure the Permanent Marquee is in good working order. CITY may use the Permanent Marquee at its discretion.

3.12 **ADA Compliance**. CITY shall be responsible for the PACC PROPERTY to comply with all ADA regulations for restrooms and property access.

3.13 **Ticketing.** Ticketing for all EVENTS shall operate through SVV's Ticketmaster account. SVV shall maintain the exclusive box office contract for Events hosted at the PACC Property.

3.14 **Environmental.** SVV shall not be responsible for any existing contamination at the PACC Property. CITY shall provide to SVV for inspection any and all environmental information that it may possess in order to assist in the environmental evaluation of the PACC Property.

3.15 **Parking.** Except when in use by CITY for Youth Center Programming, SVV shall control and maintain the PACC parking lots, as depicted in "**Exhibit C**" to this Agreement, attached hereto and incorporated by this reference, during an EVENT, and two hours before and after an EVENT. SVV shall ensure that such parking lots are clean.

3.16 **Landscaping.** SVV shall be responsible for landscape and grounds maintenance at the PACC PROPERTY, as depicted in **"Exhibit B"** to this Agreement, attached hereto and incorporated by this reference.

3.17 **HVAC/Electrical and Plumbing**. CITY shall ensure that all existing HVAC, electrical systems, and plumbing systems are in good operating condition prior to occupancy by SVV. Thereafter, CITY shall be solely responsible for electrical, plumbing, and HVAC to be maintained in proper working order.

3.18 **Capital Replacement and Capital Improvement.** CITY shall be responsible for all Capital Replacement and Capital Improvements at the PACC PROPERTY.

ARTICLE 4 LEASE RATES

4.1 **Lease Rate for SVV Events**. For each EVENT SVV conducts in the PACC AUDITORIUM, SVV shall pay CITY $2,750.00 plus 15% of gross concessions (excluding taxes and gratuities on concessions). SVV shall remit payments to CITY no more than thirty (30) days after each EVENT.

4.2 **Lease Rate for City Events**. For CITY EVENTS, the CITY shall pay SVV $2,500 for which SVV shall provide modified sound and lighting, janitorial services, security services, one attendant and one production manager ("Minimum Services"). Where CITY EVENTS require SVV to provide more than the Minimum Services, CITY shall cover LABOR COSTS in addition to the Minimum Services costs.

ARTICLE 5 NON-SVV EVENTS

5.1 **City Events.** Except where SVV has booked an EVENT on a date where the CITY desires to use the PACC AUDITORIUM to book a CITY EVENT, the CITY may book up to five (5) CITY EVENTS per fiscal year at the PACC AUDITORIUM.

5.2 **Exclusive Control.** Aside from CITY EVENTS, SVV shall maintain exclusive control over the PACC AUDITORIUM.

ARTICLE 6 GENERAL PROVISIONS

6.1 **Force Majeure**. Neither Party shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include but are not limited to acts of God, riots, acts of war, epidemics, fire, earthquakes, or other disasters, but in any case such acts shall not include labor disputes.

6.2 **Permits.** CITY represents and warrants that all permits required for the operation of the PACC Property are in place and active. SVV acknowledges that there is no Alcoholic Beverage Control ("ABC") License for alcoholic beverage sales and consumption issued for the PACC Property and that any license of permit required for alcoholic beverage

sales and consumption are to be obtained for particular events by SVV or the party holding an Event.

6.3 **Naming Rights**. Both City and SVV acknowledge that naming rights associated with the PACC PROPERTY shall be governed by a separate Agreement between the Parties.

6.4 **Records and Inspection**. SVV shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. City shall have the right to access and examine all point of sale records, without charge, during normal business hours.

6.5 **Non-Assignability**. This Agreement contemplates personal performance by SVV and is based upon a determination of SVV personnel's unique competence, experience and specialized personal knowledge. SVV shall not assign or transfer any interest in this Agreement or any part thereof, whether by assignment or novation, without City's prior written consent, which may be withheld for any reason or for no reason at all. Any purported assignment without written consent shall be null, void, and of no effect, and SVV shall hold harmless, defend and indemnify Indemnitees (as that term is defined below) from and against all Claims arising from or relating to any unauthorized assignment. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of SVV.

6.6 **Nondiscriminatory Employment.** SVV shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. SVV understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, SVV shall be responsible for such subcontractor's compliance with this Section.

6.7 **Compliance with Laws**. In performing the Services under this Agreement, SVV shall comply with all applicable laws, ordinances and regulations. Before providing any Services under this Agreement, SVV shall, at its own expense, obtain and maintain all required certificates, licenses and permits, including a City business tax certificate.

6.8 **Applicable law**. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California, excluding California's choice of law rules. Venue for any such action relating to the Agreement shall be solely in the Ventura County Superior Court.

6.9 **Titles**. The titles used in this Agreement are for convenience only and shall in no way define, limit or describe the scope or intent of this Agreement or any part of it.

6.10 **Authority**. Any person executing this Agreement on behalf of SVV warrants and represents that s/he has the authority to execute this Agreement on behalf of SVV and to bind it to the performance of these obligations. The Parties do not intend this Agreement

to be binding upon them and shall not be held liable to its terms until it is fully executed by all required signers.

6.11 **Cumulative Remedies**. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

6.12 **Integration; Amendment**. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and SVV regarding the subject matter described herein. This Agreement supersedes all prior oral or written communications, negotiations, representations, agreements and promises. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing, signed by both parties, that expressly refers to this Agreement.

6.13 **No Waiver**. Waiver by either Party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to SVV constitute or be construed as a waiver by City of any breach of covenant, or any default that may then exist on the part of SVV, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

6.14 **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement.

6.15 **Independent Contractor**. SVV is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of SVV or any of its employees, except as stated in this Agreement. SVV has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting SVV, and it is free to dispose of all portions of its time which it is not obligated to devote to City in such a manner and to such persons, firms, or corporations as SVV wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude SVV from rendering any services for SVV's own account or to any other person or entity as SVV in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services SVV shall perform for the City. Except as City Manager specifies in writing, SVV and its employees and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. SVV and its employees are not employees of City. SVV and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and/or health, life, dental, long-term disability and workers' compensation insurance benefits. SVV shall not, at any time or in any manner, represent

that it or any of its agents or employees are in any manner agents or employees of City. SVV agrees to pay all required taxes on amounts paid to SVV under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. SVV shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of SVV's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. City shall have the right to offset against the amount of any compensation due to SVV under this Agreement any amount due to City from SVV as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

6.16 **Acceptance of Payment**. SVV's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to SVV for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of SVV for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by SVV and its employees, agents and subcontractors. SVV shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by SVV or materials or products provided to City by SVV, SVV shall pay the sales tax. City shall not reimburse SVV for sales taxes paid by SVV.

6.17 **Severability**. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

ARTICLE 7 INDEMNITY

To the maximum extent permitted by law, SVV shall hold harmless, defend and indemnify the City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (collectively, "Indemnitees") from and against any and all Claims, which arise out of, pertain to, or relate to the performance of this Agreement, or the failure to comply with any of the obligations contained in this Agreement, by SVV or of any of its officials, directors, officers, employees, subcontractors, or agents. SVV's obligation to defend is a separate and distinct obligation from SVV's duty to indemnify and applies through final judgment, including exhaustion of any appeals. Operator shall be obligated to defend Indemnitees in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, immediately upon tender to SVV of the Claim in any form or at any stage of an action or proceeding. The defense obligation includes the obligation to provide independent defense counsel if SVV asserts that the liability is caused in whole or in part by the negligence or willful misconduct of any of the Indemnitees.

CITY hereby agrees to indemnify, defend and hold harmless SVV, its agents and employees, against all liability, obligations, claims, loss, damages and expenses, including reasonable

attorney's fees arising out of its negligent performance or failure to perform any of its duties or obligations under this Agreement.

ARTICLE 8 NOTICES

All notices, requests, demands and other communications which are required or may be given under this AGREEMENT shall be in writing and shall be deemed to have been duly given when received if personally delivered; when received if transmitted by fax, email or regular US mail; if received during the CITY's normal business hours (between 8 a.m. and 6 p.m. Monday through Thursday, and between 8 a.m. and 5 p.m. every other Friday) on a CITY business day (or if not, the next CITY business day after delivery); if sent for next day delivery to a domestic address by recognized overnight delivery service (*e.g.,* Federal Express); and upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to the respective Parties as follows or at such other address as one Party may notify the other in writing:

City of Oxnard
300 West Third Street
Oxnard, CA 93030
Attn: Ashley Golden, Assistant City Manager
(805) 385-7478

Sterling Venue Ventures, LLC.
28912 Roadside Dr.
Agoura Hills, CA 91301
Attn: Lance Sterling
(805) 657-9201

With a copy to:

City Attorney
City of Oxnard
305 West Third Street
Oxnard, CA 93030

ARTICLE 9 TERMINATION

9.1 **Termination with Cause.** Either party may terminate this Agreement 90 days after service of notice of a material breach of the Agreement. The 90-day period shall be a cure period, in which the party subject to the termination notice may cure the breach and avoid termination if agreed to the other Party.

9.2 **Termination at the end of any Term.** If this Agreement is not extended by mutual written agreement by both Parties at the end of any term or extension, then the Agreement will terminate at the end of the term.

9.3 **Article XVI of the State of California Constitution.** Notwithstanding anything to the contrary, CITY may terminate this AGREEMENT in order for CITY to be in compliance with Article XVI, Section 18 of the State of California Constitution (which provides in part that a city may not obligate itself where funding is unavailable). Should the CITY exercise this Section 9.3 termination option, SVV shall reserve the right to fulfill its obligations to host any EVENTS in the PACC AUDITORIUM that SVV has booked at the time the CITY exercises Section 9.3 ("Transition Period"). During the

Transition Period, SVV shall be responsible for all costs associated with operating the PACC PROPERTY.

ARTICLE 10 INSURANCE

SVV shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed in **Exhibit X**, which is attached hereto and incorporated herein by this reference, unless the City's Risk Manager waives, in writing, the requirement that SVV obtain and maintain such insurance coverages. SVV shall, before performance of any Services, file with the City's Risk Manager evidence of insurance coverage as specified in **Exhibit X**. Maintenance of insurance coverages by SVV is a material element of this Agreement. SVV's failure to maintain or renew insurance coverages or to provide renewal evidence, and any lapse in insurance coverage, may be considered a material breach of this Agreement.

SVV shall require each of its subcontractors to maintain insurance coverage that meets all of the requirements of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on January 23, 2020.

CITY OF OXNARD

Tim Flynn 2/18/20

☒ Tim Flynn, Mayor — Date

STERLING VENUE VENTURES, LLC.

2/18/20

Lance Sterling, Chief Executive Officer — Date

ATTEST:

Michelle Ascencion 2/19/20

Michelle Ascencion, City Clerk (only if Mayor signs) — Date

APPROVED AS TO FORM:

2/18/20

Stephen M. Fischer, City Attorney (always required) — Date

EXHIBIT A

7TH STREET
City Corps
Parking
NOT A PART
Park
G STREET
HOBSON WAY
Parking
Ventura Room
Oxnard Room
Auditorium
Parking
9TH STREET
Meeting Rooms
Youth Center - NOT A PART
Meeting Rooms
Auditorium
PACC Property

EXHIBIT B

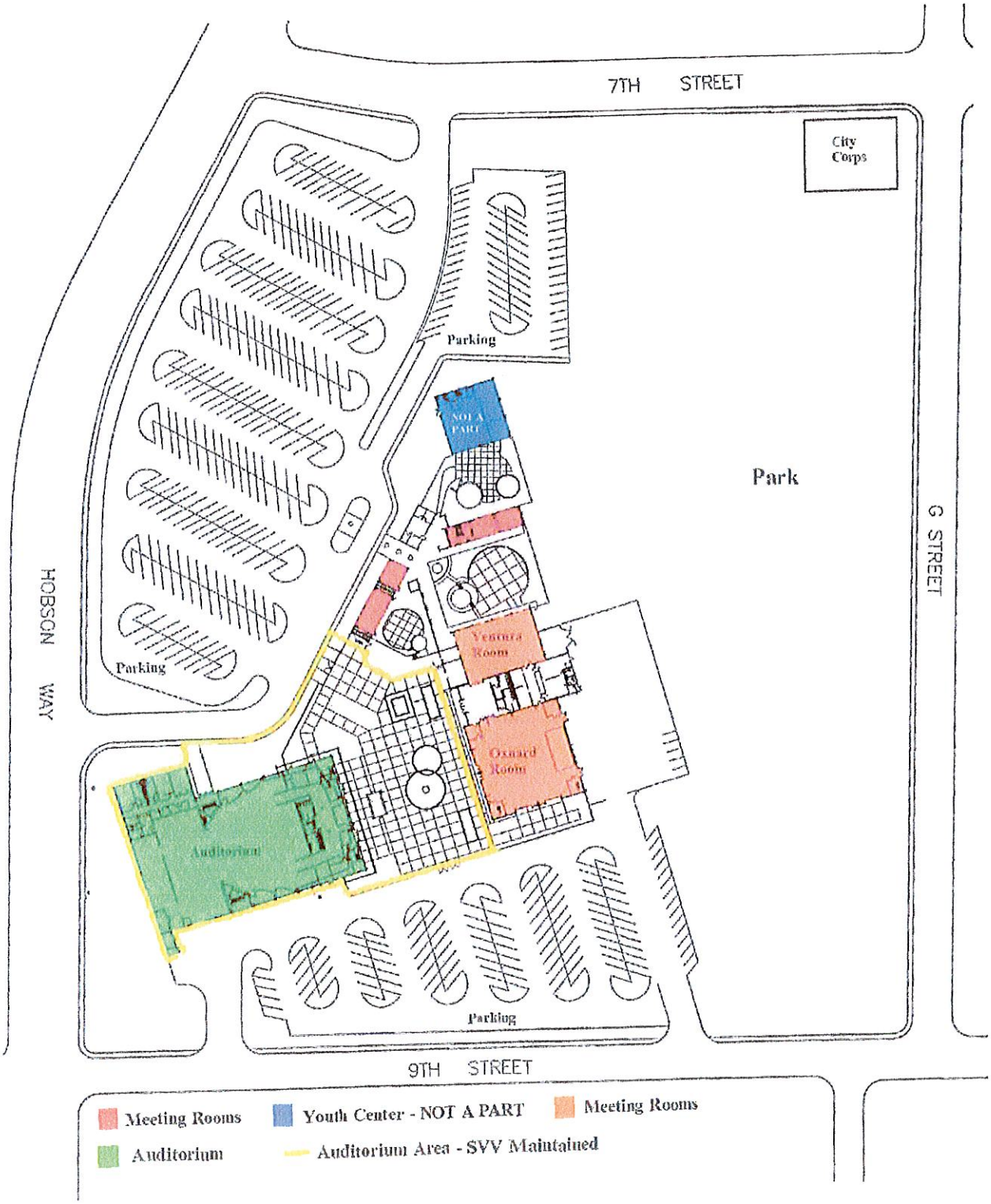
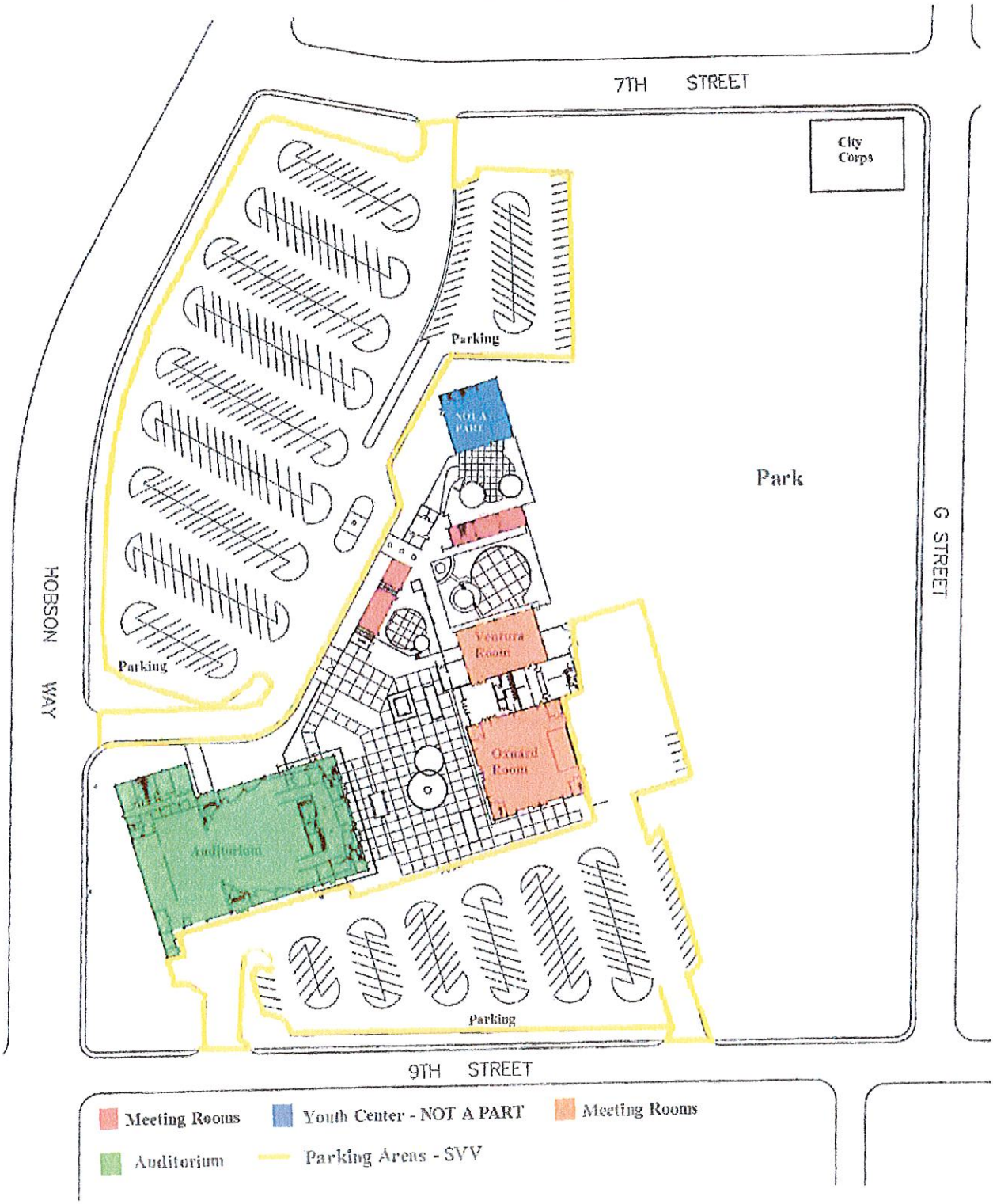

7TH STREET
City Corps
Parking
NOT A PART
Park
G STREET
HOBSON WAY
Parking
Ventura Room
Oxnard Room
Auditorium
Parking
9TH STREET
Meeting Rooms
Youth Center - NOT A PART
Meeting Rooms
Auditorium
Auditorium Area - SVV Maintained

EXHIBIT C


7TH STREET
City Corps
Parking
NOT A PART
Park
G STREET
HOBSON WAY
Parking
Ventura Room
Oxnard Room
Auditorium
Parking
9TH STREET
Meeting Rooms
Youth Center - NOT A PART
Meeting Rooms
Auditorium
Parking Areas - SVV

INSURANCE REQUIREMENTS FOR FACILITY OPERATORS

1. Operator shall obtain and maintain during the term of the lease the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the lease by Operator, its agents, representatives, employees or subcontractors.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $3,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business Automobile Liability Insurance in an amount not less than $2,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

d. Property Insurance against all risks of loss to any tenant improvements or betterments in the amount of the full replacement cost of the improvement or betterment with no co-insurance provisions.

e. Crime/Employee Dishonesty Policy in an amount not less than $3,000,000. The Crime/Employee Dishonesty Policy shall name the City of Oxnard as a Joint Loss Payee.

2. Operator shall, prior to occupation of the premises, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-X. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before occupation of the premises. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. _____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

3. Operator agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Operator agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Operator; products and completed operations of Operator; premises owned, occupied or used by Operator; or automobiles owned, leased, hired or borrowed by Operator. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-X or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance coverages **(this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

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

7. All insurance standards applicable to Operator shall also be applicable to Operator's subcontractors. Operator agrees to maintain

appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

2/20

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-X.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

CODE SUB-CODE

COMPANIES AFFORDING INSURANCE COVERAGE

INSURED

COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE

COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $6,000,000 PRODUCTS COMP/OP AGG. $3,000,000 PERSONAL & ADV. INJURY $3,000,000 EACH OCCURRENCE $3,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $2,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY**				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Property insurance against all risks of loss to any tenant improvements or betterments Crime/Employee Dishonesty Policy				LIMIT OF INSURANCE $3,000,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No._____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE_____

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)

NAMED INSURED

APPLICABILITY.

This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
☐ COMMERCIAL GENERAL LIABILITY ☐ Claims Made
☐ COMPREHENSIVE GENERAL LIABILITY Retroactive Date _____
☐ OWNERS & CONTRACTORS PROTECTIVE ☐ Occurrence

COVERAGES

	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
☐ GENERAL		
☐ PRODUCTS/COMPLETED OPERATIONS		
☐ PERSONAL & ADVERTISING INJURY		
☐ FIRE DAMAGE		
☐ _____		
☐ _____		

OTHER PROVISIONS

CLAIMS: Underwriter's representative for claims pursuant to this insurance.

Name: _____
Address: _____
_____
Telephone: (____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.

5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:

   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or

   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No._____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐_____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: (____) _____ Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to coverage. ☐ Per Occurrence ☐ Per Claim (which)

NAMED INSURED

APPLICABILITY: This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

☐ COMMERCIAL AUTO POLICY

☐ BUSINESS AUTO POLICY

☐ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS:
Underwriter's representative for claims pursuant to this insurance.

Name:_____

Address: _____

_____

Telephone:_____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.

5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:

   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or

   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No._____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE
☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: (_____)_____ Date Signed _____

AGREEMENT FOR OPERATIONS OF THE OXNARD PERFORMING ARTS AND CONVENTION CENTER ROOMS

This AGREEMENT is made and entered into on this 18th day of February, 2020 by and between STERLING VENUE VENTURES, LLC. , a California Limited Liability Corporation ("SVV"), and THE CITY OF OXNARD, a California municipal corporation ("CITY"), hereinafter referred to individually as "PARTY" or collectively as the "PARTIES."

RECITALS

WHEREAS, the CITY owns and controls the Oxnard Performing Arts and Convention Center ("PACC") located at 800 Hobson Way, Oxnard, California 93030; and

WHEREAS, the CITY desires to operate PACC as a community resource to support cultural development for the Oxnard community, provide a location for local and regional events for individuals, organizations and businesses, and to promote and provide entertainment, recreational and cultural events and activities for Oxnard residents; and

WHEREAS, the CITY desires to secure professional Event services for the PACC Rooms, and SVV is qualified and willing to provide the professional Event services.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, CITY and SVV agree as follows:

ARTICLE 1 DEFINITIONS

1.1 **BAND COSTS** – means any and all costs associated with live entertainment at an EVENT.

1.2 **CAPITAL IMPROVEMENT** – means the installation, construction or reconstruction of public improvements.

1.3 **CAPITAL REPLACEMENT** – means the replacement of parts or portions of public improvements, such as buildings, structures, pavement and the like which have met or exceeded their prescribed life cycles or which have been damaged by accident, acts of third parties, weather and other acts of nature, and the like, requiring significant outlays of capital.

1.4 **CITY EVENT** – means any presentation, show, performance, showcase or any other live entertainment funded and organized by a CITY Department held in the PACC ROOMS.

1.5 **EVENT**- means any presentation, show, performance, showcase or any other live entertainment, or event put on by SVV hosted in the PACC ROOMS.

1.6 **LABOR COSTS**- means any and all direct and indirect costs associated with staffing any event in the PACC ROOMS.

COUNCIL APPROVED
2/18/2020 L2(2)
DATE

1.7 **MAINTENANCE** – means the routine and customary care and replacement of grounds, buildings, lighting, and pavement, and the like, not requiring significant outlays of capital.

1.8 **PACC** – means the Oxnard Performing Arts and Convention Center, located at 800 West Hobson Way, Oxnard, California 93030.

1.9 **PACC ROOMS** – means the facilities labeled and depicted in **"Exhibit A"** of this Agreement. Throughout this Agreement, PACC ROOMS are sometimes called "Meeting Rooms."

1.10 **PACC PROPERTY** – means the Oxnard Performing Arts and Convention Center property as depicted in **"Exhibit A"** of this Agreement.

ARTICLE 2 TERM OF AGREEMENT

2.1 SVV shall operate the Oxnard Performing Arts Center Rooms ("PACC ROOMS"), as depicted in **"Exhibit A,"** attached hereto and incorporated by this reference, in coordination with the Oxnard Performing Arts Center Corporation Board of Directors, from March 1, 2020 until March 1, 2025.

2.2 Unless otherwise terminated, this Agreement may be extended by up to an additional five (5) years by mutual agreement in writing between the City and SVV, subject to City Council approval.

ARTICLE 3 ROLES AND RESPONSIBILITIES

3.1 **Event Expenses.** SVV shall be responsible for EVENT costs, including but not limited to: Costs of goods, BAND COSTS, LABOR COSTS, concessions expenses, marketing costs, janitorial services, and procuring and maintaining EVENT insurance.

3.2 **Facility Preparation.** SVV shall be responsible for providing adequate event oriented facility preparation, sufficient sanitary facilities, clean-up, and event security, and user damage and repairs required as a result of PACC PROPERTY use. At the beginning of each year, SVV shall meet with the CITY's Public Works Director (or the person designated by the City Manager) to agree upon standards for the foregoing facilities and activities.

3.3 **Janitorial Services.** SVV shall monitor the PACC ROOMS, including restrooms, and keep it clean and supplied with necessary janitorial products during each EVENT or CITY EVENT. SVV shall also clean the PACC restrooms prior to each EVENT or CITY EVENT, and shall clean the restrooms after each EVENT or CITY EVENT.

3.4 **Liability and Workers Compensation Insurance.** SVV shall provide Liability and Workers Compensation Insurance for its employees.

3.5 **Furniture, Fixtures, and Equipment.** SVV may, at its own expense, furnish, and set up fixtures and equipment necessary for the operation and maintenance of the Rooms.

3.6 **Maintenance.** SVV shall be responsible for all aspects of the maintenance at the PACC PROPERTY, as depicted in "**Exhibit B**" of this Agreement, including but not limited to grounds maintenance, janitorial services, and alarm monitoring services during all times the PACC ROOMS are not in use. SVV shall ensure facility exterior is adequately maintained prior to scheduled EVENTS, including CITY EVENTS.

3.7 **Possessory Interest Taxes.** SVV shall be responsible for any possessory interest tax imposed on it based upon this Agreement. CITY shall not be responsible for any such possessory interest taxes.

3.8 **Property Insurance.** CITY shall be responsible for property insurance for the PACC Property.

3.9 **ADA Compliance.** CITY shall be responsible for the PACC PROPERTY to comply with all ADA regulations for restrooms and property access.

3.10 **Ticketing.** If applicable, ticketing for all EVENTS shall operate through SVV's Ticketmaster account. SVV shall maintain the exclusive box office contract for all events hosted at the PACC Property.

3.11 **Environmental.** SVV shall not be responsible for any existing contamination at the PACC Property. CITY shall provide to SVV for inspection any and all environmental information that it may possess in order to assist in the environmental evaluation of the PACC Property.

3.12 **Landscaping.** SVV shall be responsible for landscape and grounds maintenance at the PACC PROPERTY, as depicted in "**Exhibit B**" to this Agreement, attached hereto and incorporated by this reference.

3.13 **HVAC/Electrical and Plumbing.** CITY shall ensure that all existing HVAC, electrical systems, and plumbing systems are in good operating condition prior to occupancy by SVV. Thereafter, CITY shall be solely responsible for electrical, plumbing, and HVAC to be maintained in proper working order.

3.14 **Capital Replacement and Capital Improvement.** CITY shall be responsible for all Capital Replacement and Capital Improvements at the PACC PROPERTY.

ARTICLE 4 LEASE RATES

4.1 **Lease Rate for SVV Events.** For each EVENT SVV conducts in the PACC ROOMS, SVV shall pay CITY 50% of all fees collected from renters, in accordance with the approved fee schedule, attached hereto as "**Exhibit C**" and incorporated by this reference. SVV shall remit payments to CITY no more than thirty (30) days after each EVENT.

4.2 **Lease Rate for City Events.** CITY shall pay fees detailed in "**Exhibit C.**" Such fees are adopted by the Oxnard City Council, and may be amended from time to time.

ARTICLE 5 NON-SVV EVENTS

5.1 **City Events.** Except where SVV has booked an EVENT on a date where the CITY desires to use the a specific PACC ROOM to book a CITY EVENT, the CITY may book a CITY EVENT in the PACC ROOM of CITY's choice.

5.2 **Exclusive Control.** Aside from CITY EVENTS, SVV shall maintain exclusive control over the PACC ROOMS.

ARTICLE 6 GENERAL PROVISIONS

6.1 **Force Majeure.** Neither Party shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include but are not limited to acts of God, riots, acts of war, epidemics, fire, earthquakes, or other disasters, but in any case such acts shall not include labor disputes.

6.2 **Permits.** CITY represents and warrants that all permits required for the operation of the PACC Property are in place and active. SVV acknowledges that there is no Alcoholic Beverage Control ("ABC") License for alcoholic beverage sales and consumption issued for the PACC Property and that any license of permit required for alcoholic beverage sales and consumption are to be obtained for particular events by SVV or the party holding an Event.

6.3 **Naming Rights.** Both City and SVV acknowledge that naming rights associated with the PACC PROPERTY shall be governed by a separate Agreement between the Parties.

6.4 **Records and Inspection.** SVV shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. City shall have the right to access and examine all point of sale records, without charge, during normal business hours.

6.5 **Non-Assignability.** This Agreement contemplates personal performance by SVV and is based upon a determination of SVV personnel's unique competence, experience and specialized personal knowledge. SVV shall not assign or transfer any interest in this Agreement or any part thereof, whether by assignment or novation, without City's prior written consent, which may be withheld for any reason or for no reason at all. Any purported assignment without written consent shall be null, void, and of no effect, and SVV shall hold harmless, defend and indemnify Indemnitees (as that term is defined below) from and against all Claims arising from or relating to any unauthorized assignment. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of SVV.

6.6 **Nondiscriminatory Employment.** SVV shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry,

ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. SVV understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, SVV shall be responsible for such subcontractor's compliance with this Section.

6.7 **Compliance with Laws**. In performing the Services under this Agreement, SVV shall comply with all applicable laws, ordinances and regulations. Before providing any Services under this Agreement, SVV shall, at its own expense, obtain and maintain all required certificates, licenses and permits, including a City business tax certificate.

6.8 **Applicable law**. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California, excluding California's choice of law rules. Venue for any such action relating to the Agreement shall be solely in the Ventura County Superior Court.

6.9 **Titles**. The titles used in this Agreement are for convenience only and shall in no way define, limit or describe the scope or intent of this Agreement or any part of it.

6.10 **Authority**. Any person executing this Agreement on behalf of SVV warrants and represents that s/he has the authority to execute this Agreement on behalf of SVV and to bind it to the performance of these obligations. The Parties do not intend this Agreement to be binding upon them and shall not be held liable to its terms until it is fully executed by all required signers.

6.11 **Cumulative Remedies**. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

6.12 **Integration; Amendment**. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and SVV regarding the subject matter described herein. This Agreement supersedes all prior oral or written communications, negotiations, representations, agreements and promises. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing, signed by both parties, that expressly refers to this Agreement.

6.13 **No Waiver**. Waiver by either Party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to SVV constitute or be construed as a waiver by City of any breach of covenant, or any default that may then exist on the part of SVV, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

6.14 **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement.

6.15 **Independent Contractor**. SVV is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of SVV or any of its employees, except as stated in this Agreement. SVV has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting SVV, and it is free to dispose of all portions of its time which it is not obligated to devote to City in such a manner and to such persons, firms, or corporations as SVV wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude SVV from rendering any services for SVV's own account or to any other person or entity as SVV in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services SVV shall perform for the City. Except as City Manager specifies in writing, SVV and its employees and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. SVV and its employees are not employees of City. SVV and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and/or health, life, dental, long-term disability and workers' compensation insurance benefits. SVV shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. SVV agrees to pay all required taxes on amounts paid to SVV under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. SVV shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of SVV's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. City shall have the right to offset against the amount of any compensation due to SVV under this Agreement any amount due to City from SVV as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

6.16 **Acceptance of Payment**. SVV's acceptance of final payment made pursuant to this Agreement shall constitute a release of City from all claims and liabilities for compensation to SVV for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of SVV for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by SVV and its employees, agents and subcontractors. SVV shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by SVV or materials or products provided to City by SVV, SVV shall pay the sales tax. City shall not reimburse SVV for sales taxes paid by SVV.

6.17 **Severability.** If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

ARTICLE 7 INDEMNITY

To the maximum extent permitted by law, SVV shall hold harmless, defend and indemnify the City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (collectively, "Indemnitees") from and against any and all Claims, which arise out of, pertain to, or relate to the performance of this Agreement, or the failure to comply with any of the obligations contained in this Agreement, by SVV or of any of its officials, directors, officers, employees, subcontractors, or agents. SVV's obligation to defend is a separate and distinct obligation from SVV's duty to indemnify and applies through final judgment, including exhaustion of any appeals. Operator shall be obligated to defend Indemnitees in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, immediately upon tender to SVV of the Claim in any form or at any stage of an action or proceeding. The defense obligation includes the obligation to provide independent defense counsel if SVV asserts that the liability is caused in whole or in part by the negligence or willful misconduct of any of the Indemnitees.

CITY hereby agrees to indemnify, defend and hold harmless SVV, its agents and employees, against all liability, obligations, claims, loss, damages and expenses, including reasonable attorney's fees arising out of its negligent performance or failure to perform any of its duties or obligations under this Agreement.

ARTICLE 8 NOTICES

All notices, requests, demands and other communications which are required or may be given under this AGREEMENT shall be in writing and shall be deemed to have been duly given when received if personally delivered; when received if transmitted by fax, email or regular US mail; if received during the CITY's normal business hours (between 8 a.m. and 6 p.m. Monday through Thursday, and between 8 a.m. and 5 p.m. every other Friday) on a CITY business day (or if not, the next CITY business day after delivery); if sent for next day delivery to a domestic address by recognized overnight delivery service (*e.g.,* Federal Express); and upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to the respective Parties as follows or at such other address as one Party may notify the other in writing:

City of Oxnard
300 West Third Street
Oxnard, CA 93030
Attn: Ashley Golden, Assistant City Manager
(805) 385-7478

Sterling Venue Ventures, LLC.
28912 Roadside Dr.
Agoura Hills, CA 91301
Attn: Lance Sterling
(805) 657-9201

With a copy to:

City Attorney
City of Oxnard

305 West Third Street
Oxnard, CA 93030

ARTICLE 9 TERMINATION

9.1 **Termination with Cause.** Either party may terminate this Agreement 90 days after service of notice of a material breach of the Agreement. The 90-day period shall be a cure period, in which the party subject to the termination notice may cure the breach and avoid termination if agreed to the other Party.

9.2 **Termination at the end of any Term.** If this Agreement is not extended by mutual written agreement by both Parties at the end of any term or extension, then the Agreement will terminate at the end of the term.

9.3 **Article XVI of the State of California Constitution.** Notwithstanding anything to the contrary, CITY may terminate this AGREEMENT in order for CITY to be in compliance with Article XVI, Section 18 of the State of California Constitution (which provides in part that a city may not obligate itself where funding is unavailable). Should the CITY exercise this Section 9.3 termination option, SVV shall reserve the right to fulfill its obligations to host any EVENTS in the PACC ROOMS that SVV has booked at the time the CITY exercises Section 9.3 ("Transition Period"). During the Transition Period, SVV shall be responsible for all costs associated with operating the PACC PROPERTY.

ARTICLE 10 INSURANCE

SVV shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed in **Exhibit X**, which is attached hereto and incorporated herein by this reference, unless the City's Risk Manager waives, in writing, the requirement that SVV obtain and maintain such insurance coverages. SVV shall, before performance of any Services, file with the City's Risk Manager evidence of insurance coverage as specified in **Exhibit X**. Maintenance of insurance coverages by SVV is a material element of this Agreement. SVV's failure to maintain or renew insurance coverages or to provide renewal evidence, and any lapse in insurance coverage, may be considered a material breach of this Agreement.

SVV shall require each of its subcontractors to maintain insurance coverage that meets all of the requirements of this Agreement.

[SIGNATURES ON THE NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on 02/18, 2020.

CITY OF OXNARD

Tim Flynn 2/18/20

☒ Tim Flynn, Mayor Date

Sterling Venue Ventures, LLC.

2/18/20

Lance Sterling Date
Chief Executive Officer

ATTEST:

Michelle Ascencion 2/19/20

Michelle Ascencion, City Clerk (only if Mayor signs) Date

APPROVED AS TO FORM:

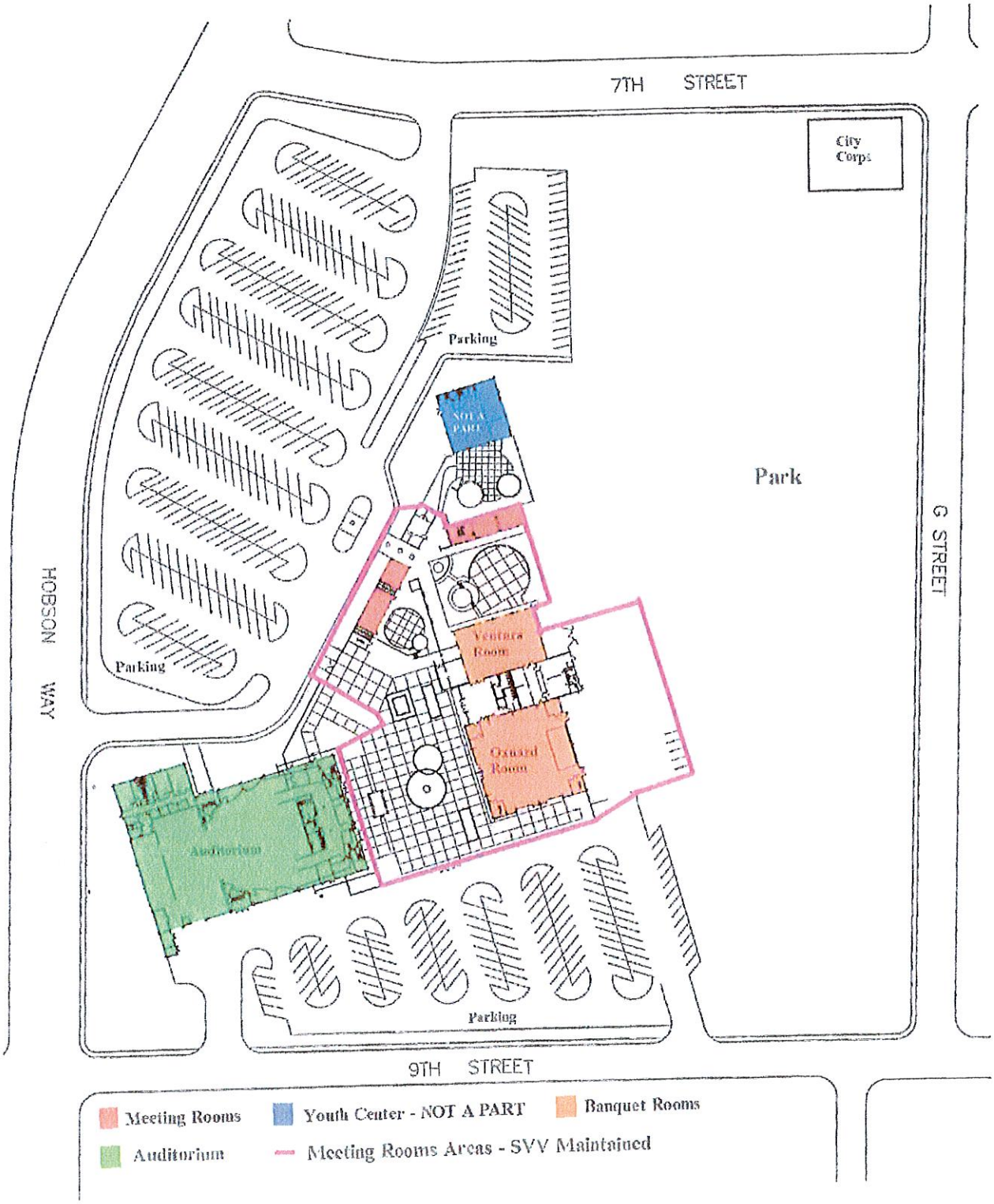
FOR 2/19/20

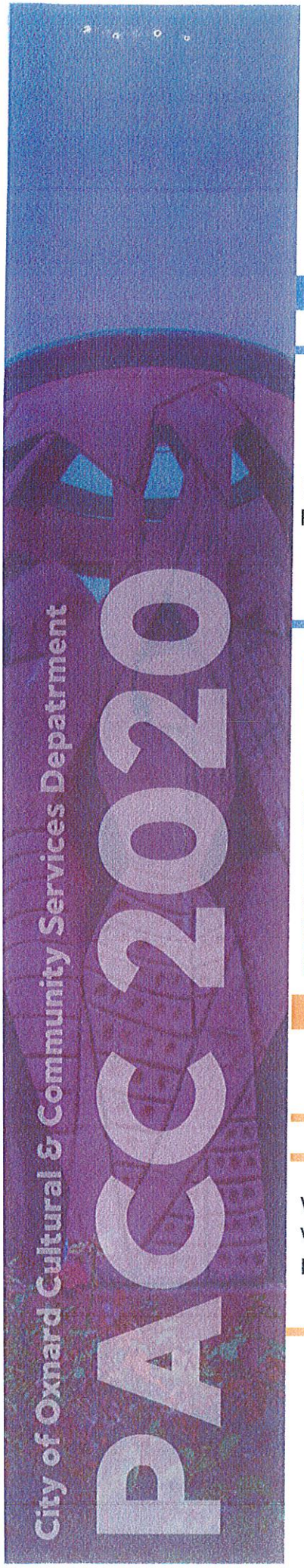
Stephen M. Fischer, City Attorney (always required) Date

EXHIBIT A

7TH STREET
City Corps
Parking
NOT A PART
Park
G STREET
HOBSON WAY
Parking
Ventura Room
Oxnard Room
Auditorium
Parking
9TH STREET
Meeting Rooms
Youth Center - NOT A PART
Meeting Rooms
Auditorium
PACC Property

EXHIBIT B


7TH STREET
City Corps
Parking
NOT A PART
Park
G STREET
HOBSON WAY
Parking
Ventura Room
Oxnard Room
Auditorium
Parking
9TH STREET
Meeting Rooms
Youth Center - NOT A PART
Banquet Rooms
Auditorium
Meeting Rooms Areas - SVV Maintained



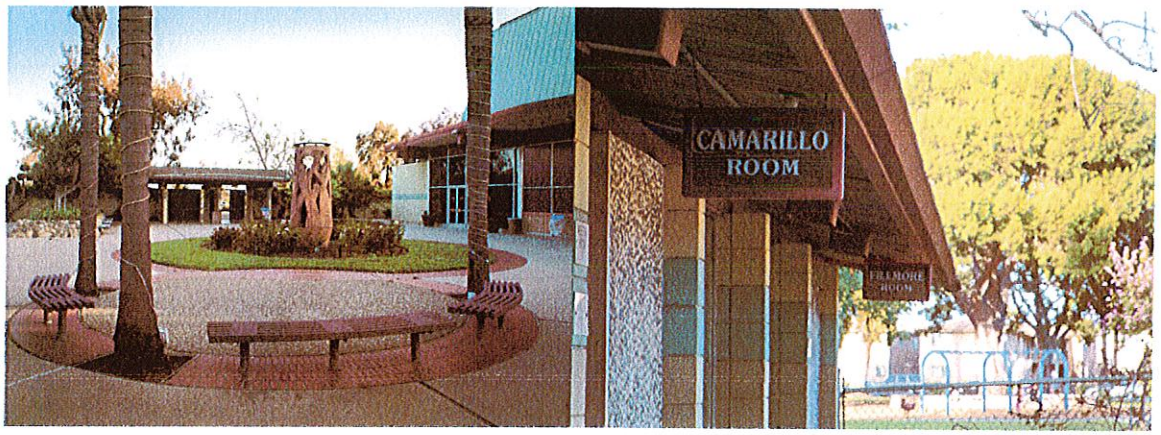
PACC CITY OF OXNARD PERFORMING ARTS & CONVENTION CENTER

800 HOBSON WAY, OXNARD, CA 93030 | 805-385-7995

Thank you for selecting the Oxnard Performing Arts & Convention Center for your special event. Listed below for you are the detailed costs that pertain to your event.

BANQUET ROOM CHARGES

CHARGE	OXNARD ROOM	VENTURA ROOM
Room Rental Fee		
Mon-Thurs	$200/hour	$150/hour
Fri-Sun Daytime (8am-3pm)	$257/hour	$175/hour
Fri-Sun Evening (4pm-11pm)	$358/hour	$286/hour
Refundable Cleaning Deposit	$500	$500
One-Day Permit	$73	$73
Kitchen Fee	$100	$100



MEETING ROOM CHARGES (45 PERSON CAPACITY)

FILMORE ROOM | SANTA PAULA ROOM | HUENEME ROOM*
CAMARILLO ROOM | THOUSAND OAKS ROOM*

*ROOMS MAY BE COMBINED INTO ONE LARGE MEETING ROOM

CHARGE	OXNARD RESIDENT
Weekday Rental Fee	$45/hour
Weekend Rental Fee	$65/hour
Refundable Cleaning Deposit	$100

2-HOUR MINIMUM FOR MEETING ROOM RENTALS

RENTAL RATES INCLUDE SET-UP WITH EXISTING INVENTORY OF TABLES AND CHAIRS. ADDITIONAL SET-UPS WILL BE CHARGED EXTRA

CITY OF OXNARD CALIFORNIA

INSURANCE REQUIREMENTS FOR FACILITY OPERATORS

1. Operator shall obtain and maintain during the term of the lease the following insurance against claims for injuries to persons or damages to property which may arise from or in connection with the lease by Operator, its agents, representatives, employees or subcontractors.

a. Commercial General Liability Insurance, including Contractual Liability, in an amount not less than $3,000,000 combined single limit for bodily injury and property damage for each claimant for general liability with coverage equivalent to Insurance Services Office Commercial General Liability Coverage (Occurrence Form CG 0001). If a general aggregate limit is used, that limit shall apply separately to the project or shall be twice the occurrence amount;

b. Business Automobile Liability Insurance in an amount not less than $2,000,000 combined single limit for bodily injury and property damage for each claimant for automobile liability with coverage equivalent to Insurance Services Office Automobile Liability Coverage (Occurrence Form CA0001) covering Code No. 1, "any auto;"

c. Workers' Compensation Insurance in compliance with the laws of the State of California, and Employer's Liability Insurance in an amount not less than $1,000,000 per claimant. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City.

d. Property Insurance against all risks of loss to any tenant improvements or betterments in the amount of the full replacement cost of the improvement or betterment with no co-insurance provisions.

e. Crime/Employee Dishonesty Policy in an amount not less than $3,000,000. The Crime/Employee Dishonesty Policy shall name the City of Oxnard as a Joint Loss Payee.

2. Operator shall, prior to occupation of the premises, file with the Risk Manager certificates of insurance with original endorsements effecting coverage required by this Exhibit INS-X. 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. The certificates and endorsements are to be on the attached forms or on other forms approved by the Risk Manager. All certificates and endorsements are to be received and approved by the Risk Manager before occupation of the premises. City reserves the right to require complete certified copies of all required insurance policies at any time. The certificates of insurance and endorsements shall be sent via email (or fax if necessary) to the Risk Manager, addressed as follows (do not send hard copies):

City of Oxnard
Insurance Compliance
Reference No. _____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

3. Operator agrees that all insurance coverages shall be provided by a California admitted insurance carrier with an A.M. Best rating of A:VII or better and shall be endorsed to state that coverage may not be suspended, voided, canceled by either party, or reduced in coverage or limits without 30 days' prior written notice to the Risk Manager. The Risk Manager shall not approve or accept any endorsement if the endorsement contains "best effort" modifiers or if the insurer is relieved from the responsibility to give such notice.

4. Operator agrees that the Commercial General Liability and Business Automobile Liability Insurance policies shall be endorsed to name City, its City Council, officers, employees and volunteers as additional insureds as respects: liability arising out of activities performed by or on behalf of Operator; products and completed operations of Operator; premises owned, occupied or used by Operator; or automobiles owned, leased, hired or borrowed by Operator. The coverage shall contain no special limitations on the scope of protection afforded to City, its City Council, officers, employees and volunteers. **The General Liability Special Endorsement Form and Automobile Liability Special Endorsement Form attached to this Exhibit INS-X or substitute forms containing the same information and acceptable to the Risk Manager shall be used to provide the endorsements (ISO form CG 2010 11/85 or if not available, CG 2010 with an edition date prior to 01/04 <u>and</u> CG 2037).**

5. The coverages provided to City shall be primary and not contributing to or in excess of any existing City insurance coverages **(this must be endorsed)**. Additionally, the workers' compensation policy shall include a waiver of all rights of subrogation which the insurer may have against the City. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its City Council, officers, employees and volunteers. The 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.

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

7. All insurance standards applicable to Operator shall also be applicable to Operator's subcontractors. Operator agrees to maintain

appropriate agreements with subcontractors and to provide proper evidence of coverage upon receipt of a written request from the Risk Manager.

2/20

INSTRUCTION FOR SUBMITTING INSURANCE CERTIFICATES AND ENDORSEMENT FORMS

Certificates of Insurance

The sample accord form on the following page is provided to facilitate your preparation and submission of certificates of insurance. You may use this or any industry form that shows coverage as broad as that shown on the attached sample. **Please note the certificate holder address must be as shown on the attached sample accord form with the contract number and insurance exhibit identification information completed.** Improperly addressed certificates may delay the contract start-up date because the City's practice is to return unidentifiable insurance certificates to the insured for clarification as to the contract number. **Cancellation provisions must be endorsed to the policy. Modifying the certificate does not change coverage or obligate the carrier to provide notice of cancellation.**

Endorsement Forms

Original endorsements are required for commercial general liability and business automobile liability insurance policies and must be attached to the applicable certificate of insurance. City preference is that you use the endorsement forms which are attached. Substitute forms will be accepted, however, as long as they include provisions comparable to the attached.

INS-X.doc

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

PRODUCER	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.
CODE SUB-CODE	COMPANIES AFFORDING INSURANCE COVERAGE
INSURED	COMPANY LETTER A SPECIFY COMPANY NAMES IN THIS SPACE
	COMPANY LETTER B

COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	**GENERAL LIABILITY** [x] COMMERCIAL GENERAL LIABILITY [ ] CLAIMS MADE [x] OCCUR. [x] OWNER'S & CONTRACTOR'S PROT.				GENERAL AGGREGATE $6,000,000 PRODUCTS COMP/OP AGG. $3,000,000 PERSONAL & ADV. INJURY $3,000,000 EACH OCCURRENCE $3,000,000 FIRE DAMAGE (Any one fire) $ MED. EXPENSE (Any one person) $
A	**AUTOMOBILE LIABILITY** [x] ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS GARAGE LIABILITY				COMBINED SINGLE LIMIT $2,000,000 BODILY INJURY (Per person) $ BODILY INJURY (Per accident) $ PROPERTY DAMAGE $
A	**EXCESS LIABILITY** UMBRELLA FORM OTHER THAN UMBRELLA FORM				EACH OCCURRENCE $ AGGREGATE $
A	**WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY**				STATUTORY LIMITS EACH ACCIDENT $1,000,000 DISEASE-POLICY LIMIT $1,000,000 DISEASE-EACH EMPLOYEE $1,000,000
A	**OTHER** Property insurance against all risks of loss to any tenant improvements or betterments Crime/Employee Dishonesty Policy				LIMIT OF INSURANCE $3,000,000

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/RESTRICTIONS/SPECIAL ITEMS

CERTIFICATE HOLDER	CANCELLATION
CITY OF OXNARD Attn: Insurance Compliance Reference No._____ P.O. Box 100085 – OX Duluth, GA 30096 Via Email: cityofoxnard@ebix.com Via Fax: 678-259-1007	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES. AUTHORIZED REPRESENTATIVE_____

GENERAL LIABILITY SPECIAL ENDORSEMENT FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to _____ coverage. ☐ Per Occurrence ☐ Per Claim (which)

NAMED INSURED

APPLICABILITY.

This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

GENERAL LIABILITY
☐ COMMERCIAL GENERAL LIABILITY
☐ COMPREHENSIVE GENERAL LIABILITY
☐ OWNERS & CONTRACTORS PROTECTIVE

☐ Claims Made
Retroactive Date _____
☐ Occurrence

OTHER PROVISIONS

COVERAGES

	LIABILITY LIMITS IN THOUSANDS $	
	EACH OCCURRENCE	AGGREGATE
☐ GENERAL		
☐ PRODUCTS/COMPLETED OPERATIONS		
☐ PERSONAL & ADVERTISING INJURY		
☐ FIRE DAMAGE		
☐ _____		
☐ _____		

CLAIMS: Underwriter's representative for claims pursuant to this insurance.
Name: _____
Address: _____
_____
Telephone: (_____) _____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, employees and volunteers are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.

5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Commercial General Liability Coverage, "occurrence" form CG0001; or
   b. If excess, affords coverage which is at least as broad as the primary insurance form CG0001.

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No._____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE

☐ Broker/Agent ☐ Underwriter ☐_____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: (_____) _____ Date Signed _____

AUTOMOBILE LIABILITY SPECIAL ENDORSEMENT
FOR THE CITY OF OXNARD (the "City")

SUBMIT IN DUPLICATE

ENDORSEMENT NO.	ISSUE DATE (MM/DD/YY)

PRODUCER

Telephone:

POLICY INFORMATION:
Insurance Company:
Policy No.:
Policy Period: (from) (to)
LOSS ADJUSTMENT EXPENSE ☐ Included in Limits ☐ In Addition to Limits

☐ Deductible ☐ Self-Insured Retention (check which) of $ _____ with an Aggregate of $_____ applies to coverage. ☐ Per Occurrence ☐ Per Claim (which)

NAMED INSURED

APPLICABILITY: This insurance pertains to the operations, products and/or tenancy of the named insured under all written agreements and permits in force with the City unless checked here ☐ in which case only the following specific agreements and permits with the City are covered:

CITY AGREEMENTS/PERMITS

TYPE OF INSURANCE

☐ COMMERCIAL AUTO POLICY
☐ BUSINESS AUTO POLICY
☐ OTHER

OTHER PROVISIONS

LIMIT OF LIABILITY

$ _____ per accident, for bodily injury and property damage.

CLAIMS:
Underwriter's representative for claims pursuant to this insurance.

Name:_____
Address: _____
_____
Telephone:_____

In consideration of the premium charged and notwithstanding any inconsistent statement in the policy to which this endorsement is attached or any endorsement now or hereafter attached thereto, insurance company agrees as follows:

1. **INSURED.** The City, its officers, agents, volunteers and employees are included as insureds with regard to liability and defense of suits arising from the operations, products and activities performed by or on behalf of the named insured.

2. **CONTRIBUTION NOT REQUIRED.** As respects: (a) work performed by the named insured for or on behalf of the City; or (b) products sold by the named insured to the City; or (c) premises leased by the named insured from the City, the insurance afforded by this policy shall be primary insurance as respects the City, its officers, agents, employees or volunteers; or stand in an unbroken chain of coverage excess of the named insured's scheduled underlying primary coverage. In either event, any other insurance maintained by the City, its officers, agents, employees or volunteers shall be in excess of this insurance and shall not contribute with it.

3. **SEVERABILITY OF INTEREST.** This insurance applies separately to each insured against whom claim is made or suit is brought except with respect to the company's limits of liability. The inclusion of any person or organization as an insured shall not affect any right which such person or organization would have as a claimant if not so included.

4. **CANCELLATION NOTICE.** With respect to the interests of the City, this insurance shall not be canceled, or materially reduced in coverage or limits except after thirty (30) days prior written notice by receipted delivery has been given to the City.

5. **PROVISIONS REGARDING THE INSURED'S DUTIES.** Any failure to comply with reporting provisions of the policy or breaches or violations of warranties shall not affect coverage provided to the City, its officers, agents, employees or volunteers.

6. **SCOPE OF COVERAGE.** This policy, if primary, affords coverage at least as broad as:
   a. Insurance Services Office Automobile Liability Coverage, "occurrence" form CA0001, code ("any auto"); or
   b. If excess, affords coverage which is at least as broad as the primary insurance form referenced in the preceding section (1).

Except as stated above nothing herein shall be held to waive, alter or extend any of the limits, conditions, agreements or exclusions of the policy to which this endorsement is attached.

ENDORSEMENT HOLDER

CITY OF OXNARD
Attn: Insurance Compliance
Reference No._____
P.O. Box 100085 – OX
Duluth, GA 30096
Via Email: cityofoxnard@ebix.com
Via Fax: 678-259-1007

AUTHORIZED REPRESENTATIVE
☐ Broker/Agent ☐ Underwriter ☐ _____

I _____ (print/type name), warrant that I have authority to bind the above-mentioned insurance company and by my signature hereon do so bind this company to this endorsement.

Signature _____
(original signature required)

Telephone: (_____)_____ Date Signed _____

Agreement No. A-8210

OXNARD AGREEMENT/AMENDMENT REVIEW FORM

Contractor/Vendor/Consultant: Sterling Venue Ventures, LLC.

Address: **Sterling Venue Ventures, LLC.** 28912 Roadside Dr. Agoura Hills, CA 91301

Telephone No.: 805-657-9201

Contact Person: Lance Sterling

Department: Cultural & Community Services

Project Manager: Terrel Harrison

Phone: 805-385-7994

Amendment Number: _____

Contingency Requested: $_____

EISPM Funds[1] Requested: $_____

Funding Source: _____

Account No.[2]: _____

Target Approval Date: _____

Minute Track ID No. _____

Termination Date: _____

Email address: _____

Current Value of Agreement
(including prior amendments): $_____
(Attach copies of original agreement and all prior amendments)

Value of this Amendment: $_____

Total Value of Amended
_____

Agreement: $ 450,000

P.O. No. (if existing agreement): _____

Req. No. (if new agreement): _____

Business Tax Certificate No.: 21-00125599

Insurance Exhibit Type: X

Bid No.: _____

NSS control number: _____

[1] Funds for engineering, inspections, surveying & project management
[2] Attach list of account numbers and amounts if multiple accounts
[3] Moves to after Mayor and Contractor sign if public project contract
[4] Moves to after Mayor signs if public project contract
[5] Buyer signs only if contract and all amendments collectively are up to $25,000 annually; initials this form only if contract and all amendments collectively are over $25,000 annually
[6] Purchasing Manager signs only if contract and all amendments collectively are up to $100,000 annually; initials this form only if contract and all amendments collectively are over $100,000 annually
[7] City Manager/ACM signs only if contract and all amendments collectively are over $100,000 and up to $200,000 annually; initials this form only if contract and all amendments collectively are over $200,000 annually
[8] Mayor signs only if contract and all amendments collectively are over $200,000 annually; no need to initial this form
[9] City Clerk attests to contract if Mayor signed; no need to initial this form; receives only one original agreement (with wet signatures) and one copy of this form if contract states: "A signed copy of this Agreement… shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement for all purposes." If this provision is not in the agreement, City Clerk needs two original agreements (with wet signatures) and one copy of this form.

City Council
Feb. 18, 2020
Item L-2

Purpose of Agreement/Amendment and Reasonableness of Price: min. Value of $790K over 5-year term of S.V. pymt to the City for events held in meety rooms.

Review Sequence	Initials	Date
1. Project Manager	[illegible]	2-14-20
2. Department Director	[illegible]	2-14-20
3. Budget Management	RP	2/14/20
4. Risk Management[3]	mm	2/14/20
5. City Attorney (signs contract; no need to initial this form)		
6. Contractor/Vendor/Consultant (signs contract; no need to initial this form)[4]		
7. Buyer[5]		
8. Purchasing Manager[6]		
9. City Manager/ACM[7]		
10. Mayor[8]		
11. City Clerk[9]		

To Be Filled Out By City Manager, Purchasing Manager or Buyer Awarding the Contract if Contingency, EISPM Funds, or Both Are Requested:

Regarding the contingency:

- ☐ I authorize the amount of contingency requested in this form.
- ☐ I authorize _____ (up to 10% of total contract value) in contingency funding.
- ☐ I do not authorize any contingency funding.

Regarding the EISPM funds:

- ☐ I authorize the amount of EISPM funds requested in this form.
- ☐ I authorize _____ (up to 10% of total contract value) in EISPM funds.
- ☐ I do not authorize any EISPM funds.

Signed: _____ Date: _____

- ☐ Alexander Nguyen, City Manager (if contract and all amendments are up to $200,000 annually)
- ☐ Daniel Willhite, Purchasing Manager (if contract and all amendments are up to $100,000 annually)
- ☐ Rosemarie Gaglione, Public Works Director (if public project contract is up to $100,000 annually)
- ☐ Patricia Garcia, Buyer (if contract and all amendments are up to $25,000 annually)
- ☐ Eric Hernandez, Buyer (if contract and all amendments are up to $25,000 annually)
- ☐ Jose Chavez, Buyer (if contract and all amendments are up to $25,000 annually)

AMENDED AND RESTATED AGREEMENT FOR OPERATIONS OF THE OXNARD PERFORMING ARTS AND CONVENTION CENTER AUDITORIUM AND THE OXNARD PERFORMING ARTS AND CONVENTION CENTER ROOMS

This AMENDED AND RESTATED AGREEMENT (hereafter, the "Agreement"), is made and entered into on this _____ day of _____, 2025 by and between STERLING VENUE VENTURES, LLC., a California Limited Liability Corporation ("SVV"), and THE CITY OF OXNARD, a California municipal corporation ("CITY"), hereinafter referred to individually as "PARTY" or collectively as the "PARTIES."

RECITALS

WHEREAS, the CITY owns and controls the Oxnard Performing Arts and Convention Center ("PACC") located at 800 Hobson Way in Oxnard, California; and

WHEREAS, the CITY desires to operate PACC as a community resource to support cultural development for the Oxnard community, provide a location for local and regional events for individuals, organizations and businesses, and to promote and provide entertainment, recreational and cultural events and activities for Oxnard residents; and

WHEREAS, the CITY desires to secure professional Event services for the PACC Auditorium, and SVV is qualified and willing to provide the professional Event services; and.

WHEREAS, the CITY desires to secure professional Event services for the PACC Rooms, and SVV is qualified and willing to provide the professional Event services; and

WHEREAS, the CITY entered into that certain "Agreement for Operations of the Oxnard Performing Arts and Convention Center Auditorium" with SVV dated February 18, 2020 (Agreement A-8209); and

WHEREAS, the CITY entered into that certain "Agreement for Operations of the Oxnard Performing Arts and Convention Center Rooms" with SVV dated February 18, 2020 (Agreement A-8210); and

WHEREAS, Section 2.2 of both Agreement A-8209 and Agreement A-8210 provides that the agreements may be extended by up to an additional five (5) years by mutual agreement in writing between the City and SVV, subject to City Council approval; and

WHEREAS, both the City and SVV wish to combine Agreement A-8209 and Agreement A-8210 into one agreement, make limited amendments to the combined agreement and extend the term of the combined agreement until March 1, 2030.

NOW, THEREFORE, in consideration of the mutual agreements contained herein, CITY and SVV agree as follows:

ARTICLE 1 DEFINITIONS

1.1 BAND COSTS – means any and all costs associated with live entertainment at an EVENT.

1.2 CAPITAL IMPROVEMENT – means the installation, construction or reconstruction of public improvements.

1.3 CAPITAL REPLACEMENT – means the replacement of parts or portions of public improvements, such as buildings, structures, pavement, and the like, which have met or exceeded their prescribed life cycles or which have been damaged by accident, acts of third parties, weather and other acts of nature and the like, requiring significant outlays of capital.

1.4 CITY EVENT – means any presentation, show, performance, showcase or any other live entertainment funded and organized by a CITY Department held at the PACC AUDITORIUM or the PACC ROOMS.

1.5 EVENT- means any presentation, show, performance, showcase or any other live entertainment booked by SVV hosted at the PACC AUDITORIUM or the PACC ROOMS.

1.6 LABOR COSTS- means any and all direct and indirect costs associated with staffing any event at the PACC AUDITORIUM or the PACC ROOMS.

1.7 MAINTENANCE – means the routine and customary care and replacement of grounds, buildings, lighting, and pavement, and the like, not requiring significant outlays of capital.

1.8 PACC – means the Oxnard Performing Arts and Convention Center, located at 800 West Hobson Way in Oxnard, California.

1.9 PACC AUDITORIUM – means the facility, labeled "Auditorium," depicted in **"Exhibit A"** of this Agreement.

1.10 PACC ROOMS – means the facilities labeled and depicted in "Exhibit B" of this Agreement. Throughout this Agreement, PACC ROOMS are sometimes called "Meeting Rooms"

1.11 PACC PROPERTY – means the Oxnard Performing Arts and Convention Center property as depicted in **"Exhibit C"** of this Agreement.

ARTICLE 2 TERM OF AGREEMENT

2.1 SVV shall exclusively operate the Oxnard Performing Arts Center Auditorium ("PACC AUDITORIUM"), as depicted in **"Exhibit A,"** attached hereto and incorporated by this reference, from March 1, 2020 until March 1, 2030.

2.2 SVV may, in its sole discretion, operate the Oxnard Performing Arts Center Rooms ("PACC ROOMS"), as depicted in "Exhibit B," attached hereto and incorporated by this

reference, in coordination with the Oxnard Performing Arts Center Corporation Board of Directors, from March 1, 2020 until March 1, 2030.

ARTICLE 3 ROLES AND RESPONSIBILITIES

3.1 **Minimum Bookings**. SVV shall book and operate a minimum of fifty (52) EVENTS, not including CITY EVENTS per calendar year at the PACC AUDITORIUM. SVV shall make best efforts to book and operate one hundred and four (104) shows per calendar year. SVV EVENTS will consistently include acts that appeal to a broad spectrum of the community.

3.2 **Event Expenses**. SVV shall be responsible for EVENT costs, including but not limited to: Costs of goods, BAND COSTS, LABOR COSTS, concessions expenses, marketing costs, janitorial services, and procuring and maintaining EVENT insurance.

3.3 **Facility Preparation.** SVV shall be responsible for providing adequate event oriented facility preparation, sufficient sanitary facilities, clean-up, and event security, and user damage and repairs required as a result of PACC PROPERTY use. At the beginning of each year, SVV shall meet with the CITY's Public Works Director (or the person designated by the City Manager) to agree upon standards for the foregoing facilities and activities.

3.4 **Janitorial Services**. SVV shall monitor the PACC AUDITORIUM, including restrooms, and keep it clean and supplied with necessary janitorial products during each EVENT or CITY EVENT. SVV shall also clean the PACC restrooms prior to each EVENT or CITY EVENT, and shall clean the restrooms after each EVENT or CITY EVENT. SVV shall monitor the PACC ROOMS, including restrooms, and keep it clean and supplied with necessary janitorial products during each EVENT or CITY EVENT. SVV shall also clean the PACC restrooms prior to each EVENT or CITY EVENT, and shall clean the restrooms after each EVENT or CITY EVENT.

3.5 **Liability and Workers Compensation Insurance**. SVV shall provide Liability and Workers Compensation Insurance for its employees.

3.6 **Furniture, Fixtures, and Equipment**. SVV may, at its own expense, furnish, and set up fixtures and equipment necessary for the operation and maintenance of the PACC AUDITORIUM. SVV shall install sound and lighting systems in the PACC AUDITORIUM commensurate with the projected level of bookings. SVV may, at its own expense, furnish, and set up fixtures and equipment necessary for the operation and maintenance of the PACC ROOMS.

3.7 **Utilities.** CITY shall pay ongoing utility expenses, including water, sewer, trash, gas and electricity (collectively, the "Utilities Expenses") at the PACC PROPERTY; however, SVV shall pay any Utilities Expenses in excess of $125,454 in FY 25-26; $129,217.62, in FY 26-27; $133,094.15 in FY 27-28; $137,087 in FY 28-29; and $141,199.59 in FY 29-30.

3.8 **Maintenance**. SVV shall be responsible for all aspects of the maintenance at the PACC PROPERTY, as depicted in "**Exhibit C"** of this Agreement, including but not limited to grounds maintenance, janitorial services, and alarm monitoring services during all times the

PACC AUDITORIUM and/or the PACC ROOMS are not in use. Sterling Venue Ventures shall and may perform any facility repair up to $5,000 in the areas depicted in "Exhibit A" and "Exhibit B". SVV shall ensure facility exterior is adequately maintained prior to scheduled EVENTS, including CITY EVENTS.

3.9 Possessory Interest Taxes. SVV shall be responsible for any possessory interest tax imposed on it based upon this Agreement. CITY shall not be responsible for any such possessory interest taxes.

3.10 Property Insurance. CITY shall be responsible for property insurance for the PACC Property.

3.11 Signage. CITY shall cooperate with SVV to ensure the Permanent Marquee is in good working order. CITY may use the Permanent Marquee at its discretion.

3.12 ADA Compliance. CITY shall be responsible for the PACC PROPERTY to comply with all ADA regulations for restrooms and property access.

3.13 Ticketing. If applicable, ticketing for all EVENTS shall operate through SVV's Ticketmaster account. SVV shall maintain the exclusive box office contract for Events hosted at the PACC Property.

3.14 Environmental. SVV shall not be responsible for any existing contamination at the PACC Property. CITY shall provide to SVV for inspection any and all environmental information that it may possess in order to assist in the environmental evaluation of the PACC Property.

3.15 Parking. Except when in use by CITY for Youth Center Programming, SVV shall control and maintain the PACC parking lots, as depicted in "**Exhibit D"** to this Agreement, attached hereto and incorporated by this reference, during an EVENT, and two hours before and after an EVENT. SVV shall ensure that such parking lots are clean.

3.16 Landscaping. SVV shall be responsible for landscape and grounds maintenance at the PACC PROPERTY, as depicted in "**Exhibit C"** to this Agreement, attached hereto and incorporated by this reference.

3.17 HVAC/Electrical and Plumbing. CITY shall ensure that all existing HVAC, electrical systems, and plumbing systems are in good operating condition prior to occupancy by SVV. Thereafter, CITY shall be solely responsible for electrical, plumbing, and HVAC to be maintained in proper working order.

3.18 Capital Replacement and Capital Improvement. CITY shall be responsible for all Capital Replacement and Capital Improvements at the PACC PROPERTY.

ARTICLE 4 LEASE RATES

4.1 Lease Rate for SVV Events. For each EVENT SVV conducts in the PACC AUDITORIUM, SVV shall pay CITY $2,750.00 plus 15% of gross concessions (excluding taxes and gratuities on concessions). SVV shall remit payments to CITY no more than

thirty (30) days after each EVENT. For each EVENT SVV conducts in the PACC ROOMS, SVV shall pay CITY 50% of all fees collected from renters, in accordance with the approved fee schedule, attached hereto as "Exhibit E" and incorporated by this reference. SVV shall remit payments to CITY no more than thirty (30) days after each EVENT

4.2 **Lease Rate for City Events**. For CITY EVENTS at the PACC Auditorium, the CITY shall pay SVV $2,500 for which SVV shall provide modified sound and lighting, janitorial services, security services, one attendant and one production manager ("Minimum Services"). Where CITY EVENTS require SVV to provide more than the Minimum Services, CITY shall cover LABOR COSTS in addition to the Minimum Services costs. For CITY EVENTS at the PACC ROOMs, CITY shall pay fees detailed in "Exhibit E." Such fees are adopted by the Oxnard City Council, and may be amended from time to time.

ARTICLE 5 NON-SVV EVENTS

5.1 **City Events at PACC Auditorium.** Except where SVV has booked an EVENT on a date where the CITY desires to use the PACC AUDITORIUM to book a CITY EVENT, the CITY may book up to five (5) CITY EVENTS per fiscal year at the PACC AUDITORIUM.

5.2 **City Events at PACC Rooms.** Except where SVV has booked an EVENT on a date where the CITY desires to use a specific PACC ROOM to book a CITY EVENT, the CITY may book a CITY EVENT in the PACC ROOM of CITY's choice.

5.3 **Exclusive Control.** Aside from CITY EVENTS, SVV shall maintain exclusive control over the PACC AUDITORIUM and the PACC ROOMS.

ARTICLE 6 GENERAL PROVISIONS

6.1 **Force Majeure**. Neither Party shall be responsible for delays or failures in performance resulting from acts beyond the control of either party. Such acts shall include but are not limited to acts of God, riots, acts of war, epidemics, fire, earthquakes, or other disasters, but in any case such acts shall not include labor disputes.

6.2 **Permits.** CITY represents and warrants that all permits required for the operation of the PACC Property are in place and active, except SVV acknowledges that it obtained an Alcoholic Beverage Control ("ABC") License for alcoholic beverage sales and consumption on the PACC Property, which is valid and effective from September 9, 2020 through August 31, 2025

6.3 **Naming Rights**. Both City and SVV acknowledge that naming rights associated with the PACC PROPERTY shall be governed by a separate Agreement between the Parties.

6.4 **Records and Inspection**. SVV shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. City shall have the right to access and examine all point of sale records, without charge, during normal business hours.

6.5 **Non-Assignability**. This Agreement contemplates personal performance by SVV and is based upon a determination of SVV personnel's unique competence, experience and specialized personal knowledge. SVV shall not assign or transfer any interest in this Agreement or any part thereof, whether by assignment or novation, without City's prior written consent, which may be withheld for any reason or for no reason at all. Any purported assignment without written consent shall be null, void, and of no effect, and SVV shall hold harmless, defend and indemnify Indemnitees (as that term is defined below) from and against all Claims arising from or relating to any unauthorized assignment. This Agreement shall be binding upon and inure to the benefit of the heirs, executors, administrators, successors and assigns of SVV.

6.6 **Nondiscriminatory Employment.** SVV shall not unlawfully discriminate against any individual based on race, color, religion or religious creed, national origin, ancestry, ethnic group identification, primary language, physical disability, mental disability, medical condition, genetic information, marital status, gender, gender identity, gender expression, sex, sexual orientation, age, immigration status, citizenship or military and veteran status. SVV understands and agrees that it is bound by and will comply with all legal nondiscrimination mandates. For every subcontractor who will perform Services, SVV shall be responsible for such subcontractor's compliance with this Section.

6.7 **Compliance with Laws**. In performing the Services under this Agreement, SVV shall comply with all applicable laws, ordinances and regulations. Before providing any Services under this Agreement, SVV shall, at its own expense, obtain and maintain all required certificates, licenses and permits, including a City business tax certificate.

6.8 **Applicable law**. The validity, interpretation, and performance of this Agreement shall be controlled by and construed under the laws of the State of California, excluding California's choice of law rules. Venue for any such action relating to the Agreement shall be solely in the Ventura County Superior Court.

6.9 **Titles**. The titles used in this Agreement are for convenience only and shall in no way define, limit or describe the scope or intent of this Agreement or any part of it.

6.10 **Authority**. Any person executing this Agreement on behalf of SVV warrants and represents that s/he has the authority to execute this Agreement on behalf of SVV and to bind it to the performance of these obligations. The Parties do not intend this Agreement to be binding upon them and shall not be held liable to its terms until it is fully executed by all required signers.

6.11 **Cumulative Remedies**. All rights and remedies of City herein shall be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.

6.12 **Integration; Amendment**. This Agreement, including any other documents incorporated herein by specific reference, constitutes the entire and integrated agreement of City and SVV regarding the subject matter described herein. This Agreement supersedes all prior oral or written communications, negotiations, representations, agreements and

promises. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing, signed by both parties, that expressly refers to this Agreement.

6.13 **No Waiver**. Waiver by either Party of any one or more of the conditions of performance under this Agreement shall not be a waiver of any other condition of performance under this Agreement. In no event shall the making by City of any payment to SVV constitute or be construed as a waiver by City of any breach of covenant, or any default that may then exist on the part of SVV, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default.

6.14 **Counterparts**. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall be deemed to be one and the same agreement.

6.15 **Independent Contractor**. SVV is and shall at all times remain, as to City, a wholly independent contractor. Neither City nor any of its employees or agents shall have control over the conduct of SVV or any of its employees, except as stated in this Agreement. SVV has and shall retain the right to exercise full control over the employment, direction, means of performance, location, compensation and discharge of all persons assisting SVV, and it is free to dispose of all portions of its time which it is not obligated to devote to City in such a manner and to such persons, firms, or corporations as SVV wishes except as expressly provided in this Agreement. This Agreement shall not be interpreted to prevent or preclude SVV from rendering any services for SVV's own account or to any other person or entity as SVV in its sole discretion shall determine; provided, however, that performing such services shall not materially interfere with the Services SVV shall perform for the City. Except as City Manager specifies in writing, SVV and its employees and agents have no authority, express or implied, to act on behalf of City in any capacity, to incur any debt, obligation or liability on behalf of City, bind City in any manner, or otherwise act on behalf of City as an agent. SVV and its employees are not employees of City. SVV and its employees are not entitled to receive from City any of the benefits or rights afforded employees of City, including but not limited to reserve leave, sick leave, vacation leave, holiday leave, compensatory leave, Public Employees Retirement System benefits, and/or health, life, dental, long-term disability and workers' compensation insurance benefits. SVV shall not, at any time or in any manner, represent that it or any of its agents or employees are in any manner agents or employees of City. SVV agrees to pay all required taxes on amounts paid to SVV under this Agreement, and to indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this agreement. SVV shall be solely responsible for, and shall save City harmless from, all matters relating to the payment of SVV's subcontractors, material suppliers, directors, officers, employees, agents and representatives, including compliance with social security requirements, federal and State income tax withholding, and all other regulations governing employer-employee relations, as applicable. City shall have the right to offset against the amount of any compensation due to SVV under this Agreement any amount due to City from SVV as a result of its failure to promptly pay to City any reimbursement or indemnification arising under this Section.

6.16 **Acceptance of Payment**. SVV's acceptance of final payment made pursuant to this agreement shall constitute a release of City from all claims and liabilities for compensation to SVV for anything completed, finished or relating to the Services. City's payment shall not constitute nor be deemed a release of the responsibility and liability of SVV for the accuracy and competency of the information provided and/or the Services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by SVV and its employees, agents and subcontractors. SVV shall provide City with a completed Request for Taxpayer Identification Number and Certification, as issued by the Internal Revenue Service. If any sales tax is due for the Services performed by SVV or materials or products provided to City by SVV, SVV shall pay the sales tax. City shall not reimburse SVV for sales taxes paid by SVV.

6.17 **Severability**. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

ARTICLE 7 INDEMNITY

To the maximum extent permitted by law, SVV shall hold harmless, defend and indemnify the City, its legislative and advisory bodies, and the City's officials, directors, officers, employees, and agents (collectively, "Indemnitees") from and against any and all Claims, which arise out of, pertain to, or relate to the performance of this Agreement, or the failure to comply with any of the obligations contained in this Agreement, by SVV or of any of its officials, directors, officers, employees, subcontractors, or agents. SVV's obligation to defend is a separate and distinct obligation from SVV's duty to indemnify and applies through final judgment, including exhaustion of any appeals. Operator shall be obligated to defend Indemnitees in all legal, equitable, administrative, or special proceedings, with counsel approved by the City Attorney, immediately upon tender to SVV of the Claim in any form or at any stage of an action or proceeding. The defense obligation includes the obligation to provide independent defense counsel if SVV asserts that the liability is caused in whole or in part by the negligence or willful misconduct of any of the Indemnitees.

CITY hereby agrees to indemnify, defend and hold harmless SVV, its agents and employees, against all liability, obligations, claims, loss, damages and expenses, including reasonable attorney's fees arising out of its negligent performance or failure to perform any of its duties or obligations under this Agreement.

ARTICLE 8 NOTICES

All notices, requests, demands and other communications which are required or may be given under this AGREEMENT shall be in writing and shall be deemed to have been duly given when received if personally delivered; when received if transmitted by fax, email or regular US mail; if received during the CITY's normal business hours (between 8 a.m. and 6 p.m. Monday through Thursday, and between 8 a.m. and 5 p.m. every other Friday) on a CITY business day (or if not, the next CITY business day after delivery); if sent for next day delivery to a domestic address by recognized overnight delivery service (*e.g.,* Federal Express); and upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to the respective Parties as follows or at such other address as one Party may notify the other in writing:

City of Oxnard
300 West Third Street
Oxnard, CA 93030
Attn: Ashley Golden, Assistant City Manager
(805) 385-7478

Sterling Venue Ventures, LLC.
28912 Roadside Dr.
Agoura Hills, CA 91301
Attn: Lance Sterling
(805) 657-9201

With a copy to:

City Attorney
City of Oxnard
305 West Third Street, Suite 105E
Oxnard, CA 93030

ARTICLE 9 TERMINATION

9.1 **Termination with Cause**. Either party may terminate this Agreement 90 days after service of notice of a material breach of the Agreement. The 90-day period shall be a cure period, in which the party subject to the termination notice may cure the breach and avoid termination if agreed to the other Party.

9.2 **Termination at the end of any Term**. If this Agreement is not extended by mutual written agreement by both Parties at the end of any term or extension, then the Agreement will terminate at the end of the term.

9.3 **Article XVI of the State of California Constitution**. Notwithstanding anything to the contrary, CITY may terminate this AGREEMENT in order for CITY to be in compliance with Article XVI, Section 18 of the State of California Constitution (which provides in part that a city may not obligate itself where funding is unavailable). Should the CITY exercise this Section 9.3 termination option, SVV shall reserve the right to fulfill its obligations to host any EVENTS in the PACC AUDITORIUM and/or the PACC ROOMS that SVV has booked at the time the CITY exercises Section 9.3 ("Transition Period"). During the Transition Period, SVV shall be responsible for all costs associated with operating the PACC PROPERTY.

ARTICLE 10 INSURANCE

SVV shall obtain and maintain during the performance of any services under this Agreement the insurance coverages listed in **Exhibit X**, which is attached hereto and incorporated herein by this reference, unless the City's Risk Manager waives, in writing, the requirement that SVV obtain and maintain such insurance coverages. SVV shall, before performance of any Services, file with the City's Risk Manager evidence of insurance coverage as specified in **Exhibit X**. Maintenance of insurance coverages by SVV is a material element of this Agreement. SVV's failure to maintain or renew insurance coverages or to provide renewal evidence, and any lapse in insurance coverage, may be considered a material breach of this Agreement.

SVV shall require each of its subcontractors to maintain insurance coverage that meets all of the requirements of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement on _____ ___, 2025.

CITY OF OXNARD

_____ _____
☒ Luis Mc Arthur, Mayor Date

ATTEST:

_____ _____
Lourdes A. López, City Clerk Date
(only if Mayor signs)

APPROVED AS TO FORM:

_____ _____
Stephen M. Fischer, City Date
Attorney (always required)

STERLING VENUE VENTURES, LLC.

_____ _____
Lance Sterling Date
Chief Executive Officer

EXHIBIT A

PACC AUDITORIUM

EXHIBIT B

PACC ROOMS

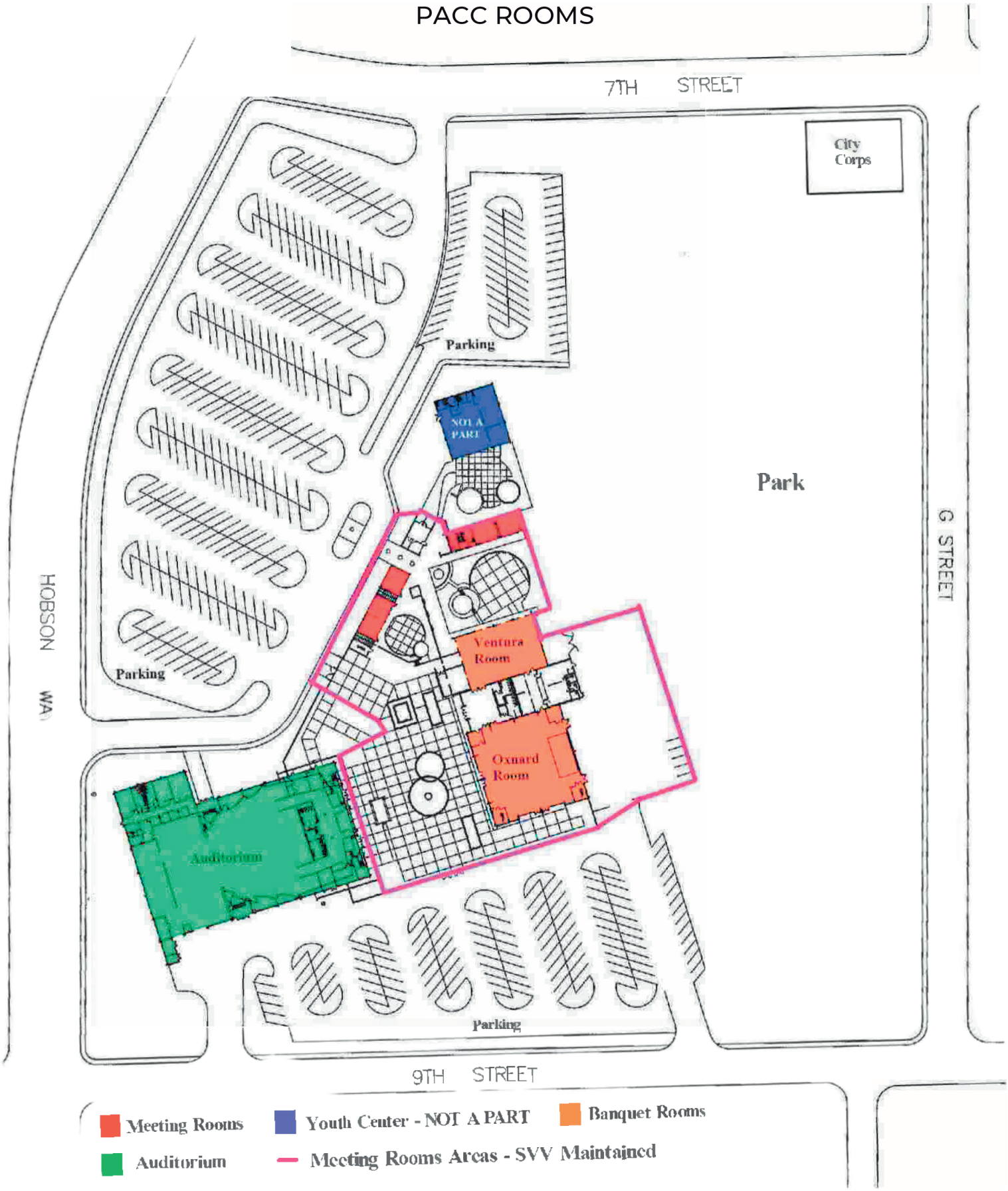


EXHIBIT C

PACC PROPERTY

EXHIBIT D

PARKING

EXHIBIT E

PACC CITY OF OXNARD
PERFORMING ARTS & CONVENTION CENTER

800 HOBSON WAY, OXNARD, CA 93030 | 805-385-7995

Thank you for selecting the Oxnard Performing Arts & Convention Center for your special event. Listed below for you are the detailed costs that pertain to your event.

BANQUET ROOM CHARGES

CHARGE	OXNARD ROOM	VENTURA ROOM
Room Rental Fee		
Fri-Sun Daytime (8am-3pm)	*$257/hour*	*$175/hour*
Fri-Sun Evening (4pm-11pm)	*$358/hour*	*$286/hour*
Refundable Cleaning Deposit	$500	$500
One-Day Permit	$73	$73
Kitchen Fee	$100	$100

MEETING ROOM CHARGES (45 PERSON CAPACITY)

FILMORE ROOM | SANTA PAULA ROOM | HUENEME ROOM*
CAMARILLO ROOM | THOUSAND OAKS ROOM*

**ROOMS MAY BE COMBINED INTO ONE LARGE MEETING ROOM*

CHARGE	OXNARD RESIDENT
Weekday Rental Fee	$45/hour
Weekend Rental Fee	$65/hour
Refundable Cleaning Deposit	$100

2-HOUR MINIMUM FOR MEETING ROOM RENTALS

RENTAL RATES INCLUDE SET-UP WITH EXISTING INVENTORY OF TABLES AND CHAIRS. ADDITIONAL SET-UPS WILL BE CHARGED EXTRA

VENTURA OUTDOOR STAGE

Monday - Thursday	$75/hour
Friday-Sunday	
Daytime (8am-3pm)	$700
Evening (4pm-11pm)	$1,100

3-HOUR MINIMUM FOR MON-THURS STAGE RENTALS

CITY OF OXNARD CALIFORNIA

City of Oxnard Cultural & Community Services Depatrment

PACC2020

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. M.3

DATE: February 18, 2025

TO: City Council

FROM: Javier Chagoyen-Lazaro, Chief Financial Officer, (805) 200-5400, javier.chagoyenlazaro@oxnard.org

SUBJECT: FY 2024-25 Mid-Year Budget. (15 minutes)

RECOMMENDATION

That the City Council:

1. Receive an update on the FY 2024-25 revenue and expenditure projections for major funds; and
2. Approve budget amendments to the General Fund (101), Street Maintenance Infrastructure Use Fee Fund (105), Special Districts Fund (120), Transportation Development Act Fund (212), Capital Outlay Fund (301), Developer & Other Deposits Fund (541), Environmental Resources Operating Fund (631), Public Liability and Property Insurance Fund (701), and the Facilities Maintenance Fund (735) as explained in this report.

(This item did not originate in Committee)
Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/5G_rb22P0TI

BACKGROUND

The purpose of this report is to provide a financial update for FY 2024-25. All references to fund balances are based on FY 2023-24 unaudited financial statements. FY 2024-25 projections for revenue and expenditures for major funds are based on five months of actuals and seven months of estimates. Capital Improvement Projects (CIP) projections assume that projects will be executed in FY 2024-25 as budgeted. At the end of the fiscal year, those projects that were not completed will be evaluated to determine if the unspent appropriation is carried over to FY 2025-26. There is one exception to this assumption which pertains to any Environmental Resources (Fund 631) funded capital project which is projected based on actual FY 2024-25 anticipated spending, reflective of a pause in spending on these projects.

Fund balance is a measure of the resources available in a governmental fund, accumulated from prior years. Generally Accepted Accounting Principles (GAAP) establishes categories of fund balance for financial reporting based on the type and source of constraints placed on how the resources can be spent. Unassigned funds are funds that can be used for any purpose. For budgetary purposes, unassigned funds are also known as surplus funds. This report makes reference to the estimated total fund balance, and describes the surplus fund balance for the General Fund only.

Note: Amounts shown throughout this report may not sum up to the exact totals shown in the PowerPoint presentation due to rounding differences.

MID YEAR PROJECTION

General Fund (101)

Revenues: Fiscal Year (FY) 2024-25 General Fund revenues are projected at $237.7 million, up $1.7 million from the

revised budget of $236 million. The increase primarily results from the following main factors: a $1.5 million increase in mutual aid reimbursement revenue, $0.4 million increase in cannabis tax, and $0.4 million increase in property and transfer tax. Other general fund revenues are anticipated to end the year a combined $0.5 million higher than originally projected.

The General Fund sales tax revenue projections declined slightly from $113.6 million to $112.5 million, a $1.1 million decrease due to an estimated reduction on disposable income for taxable spending as a result of higher consumer spending on services (non taxable) rather than taxable goods, and overall increased risk factor given federal and state funding uncertainties. Sales and use tax revenue projections were created in consultation with the City's sales tax consultants, and include the 1% Bradley Burns sales tax and 1.5% Measure E sales and use tax.

Expenditures: FY 2024-25 General Fund expenditures are projected at $289.2 million, $5.5 million dollars above the revised budget of $283.7 million. The increase in estimated expenditures primarily results from $1 million necessary to fund the Sidewalk Repairs Citywide capital project, $0.1 million to fund homeless encampment abatement needs, $0.2 million to fund the illegal dumping abatement program, $1.2 million anticipated increase in Police department overtime due to backfilling of vacant positions, Fire department net increase of $3.8 million resulting from increases of $2.5 million in unbudgeted expenditures related to mutual aid response, $1.7 million from unrealized vacancy related savings, and $0.6 million in increased funding needs for the replacement of personal protective equipment, contracting services, match funds for awarded grants, station maintenance costs, and cost of up-fitting new fire engines. This total increase of $4.8 million is partially offset by $0.9 million in anticipated overtime savings, for a net increase of $3.8 million. Projected savings of $0.8 million in other departments not noted above is primarily a result of additional vacancy savings and reduced spending on professional contracts.

Fund Balance: The City's mid-year projections for General Fund revenues ($237.7 million) and expenditures ($289.2 million) would result in a projected ending fund balance on June 30, 2025 of $46.9 million, of which $12.2 million is projected to be surplus fund balance. The projected surplus fund balance assumes the full execution in FY 2024-25 of $35.8 million in capital improvement projects.

For additional details, refer to the General Fund table in the attached Power Point presentation (slide 4).

Measure O (Half-Cent Sales Tax - Fund 104)

Revenues: FY 2024-25 Measure O Fund revenues are now projected at $21.1 million, down $0.5 million from the revised budget of $21.6 million. This reduction is due to a $0.9 million projected sales tax decline based primarily on expectations in sales tax trends as projected in consultation with the City's sales tax consultants, which is partially offset by a $0.3 million increase in projected interest revenue.

Expenditures: FY 2024-25 Measure O Fund expenditures are projected at $37 million, in line with the revised budget.

Fund Balance: Updated projections for Measure O Fund revenues ($21.1 million) and expenditures ($37 million) would result in a projected ending fund balance on June 30, 2025 of $13.7 million. The projected ending fund balance assumes the full execution in FY 2024-25 of $27 million in capital improvement projects.

For additional detail, refer to the Measure O Fund table in the attached PowerPoint presentation (slide 5).

Water Funds (601 & Related)

Revenues: FY 2024-25 Water Fund revenues are now projected at $71.0 million, up $0.1 million from the revised budget of $70.9 million. Water consumption is down, but is offset by new adopted rates, resulting in no anticipated material revenue variance.

Expenditures: FY 2024-25 Water Funds expenditures are projected at $112.9 million, which is in line with the revised budget. The revised expenditure budget includes $31.3 million in project carryovers and budget amendments approved by City Council.

Fund Balance: The FY 2024-25 projections explained above for Water Fund revenues ($71.0 million) and expenditures

($112.9 million) would result in a projected ending fund balance on June 30, 2025 of $108.1 million. The projected ending fund balance assumes the full execution in FY 2024-25 of $41.1 million of capital improvement projects in the Water Fund.

For additional detail, refer to the Water Funds table in the attached PowerPoint presentation (slide 6).

Wastewater Funds (611 & Related)

Revenues: FY 2024-25 Wastewater Fund revenues are now projected at $73.7 million, $57.1 million lower than the revised budget of $130.8 million. $53.2 million of this variance is related to timing of Debt proceeds for large capital projects related to the State Revolving Fund (SRF) loan. These proceeds are anticipated to be received over multiple fiscal years, with $30 million anticipated in FY 2024-25. Fees and charges for services are projected less than budget by $4.7 million at $40.4 million, due to a continuing decrease in water consumption across residential and commercial customer categories over the past few years.

Expenditures: FY 2024-25 Wastewater Fund expenditures are now projected at $164.8 million, lower by $3.1 million from the revised budget total of $167.9 million. Operating savings are driven by salary and benefits of $1 million due to vacancies, and by professional services projected $2 million lower than budget due to lower than anticipated spending on consulting, services and other activities including digester inspections and cleaning, biosolids, co-thickening and interstage pump reallocation studies.

Fund Balance: The FY 2024-25 projections explained above for Wastewater Fund revenues ($73.7 million) and expenditures ($164.8 million) would result in projected ending fund balance at June 30, 2025 of $128.2 million. The projected ending fund balance assumes the full execution in FY 2024-25 of $125.5 million in capital improvement projects.

For additional detail, refer to the Wastewater Funds table in the attached PowerPoint presentation (slide 7).

Environmental Resources Funds (631 & Related)

Revenues: FY 2024-25 Environmental Resources Fund revenues are projected at $62.2 million, up $3.1 million from the revised budget of $59.2 million. This $3.1 million projected increase reflects estimated Fees for services inclusive of adopted FY 2024-25 rates effective July 1, 2024.

Expenditures: FY 2024-25 Environmental Resources Fund expenditures are projected at $64.2 million, down $3.9 million from the revised budget total of $68.1 million. This reduction is due to anticipated reduced spending in capital projects of $4.4 million and a $0.5 million savings in salaries and benefits due to vacant positions. The total reduction is partially offset by a $1 million dollar increase in Infrastructure Use Fee (IUF).

Fund Balance: The FY 2024-25 projections explained above for Environmental Resources Fund revenues ($62.2 million) and expenditures ($64.2 million) would result in a projected ending fund balance on June 30, 2025 of $9.8 million. The projected ending fund balance assumes partial execution in FY 2024-25 of $0.8 million of capital projects (of the $5.3 million of total capital project appropriations) in the Environmental Resources Fund.

For additional detail, refer to the Environmental Resources Funds table in the attached PowerPoint presentation (slide 8).

Golf Course Fund (651)

Revenues: FY 2024-25 Golf Fund revenues are projected at $7 million, an increase of $0.05 million compared to the revised budget of $6.9 million due to increased projected interest revenue.

Expenditures: FY 2024-25 Golf Fund expenditures are projected at $9 million, in line with the revised budget.

On December 17, 2024, City Council approved the recognition of additional golf course revenues of $353,550 and appropriation of additional expenses of $662,890. This amendment to the Golf Course Fund revenue and expenditures has already been included in the revised budgets referred to above.

Fund Balance: The FY 2024-25 projections for the Golf Fund include revenues of $7 million and expenditures of $9 million that would result in a projected ending fund balance on June 30, 2025 of $47.4 million. The projected ending fund balance assumes the full execution in FY 2024-25 of $1.9 million in capital improvement projects in the Golf Fund.

For additional detail, refer to the Golf Funds table in the attached PowerPoint presentation (slide 9).

RECOMMENDED MID-YEAR BUDGET AMENDMENTS

General Fund (101)
Recommend $1,692,362 increase in revenues and $5,459,247 increase in expenditure appropriation, for a net use of surplus fund balance in the amount of $3,766,885. Refer to the General Fund (101) Mid-Year Projection revenues and expenditures discussion and to Attachment 2 FY2024-25 General Fund (101) Summary of Changes for the details.

Street Maintenance Infrastructure Use Fee (105)
Recommend $1,024,234 increase in revenue to reflect the Infrastructure Use Fee (IUF) to be collected from the Environmental Resources Fund (631); refer to the detailed explanation provided that follows in Fund 631.

Special Districts Fund (120) / Subfunds (6090 & 4020)
Recommend $30,000 increase in revenue and $34,635 increase in expenditure appropriation, of which $4,635 is from available fund balance.

$30,000 in revenue and expenditure appropriation is requested to record a transfer of developer deposits (Fund 541) to CFD-9 (Subfund 6090) to cover formation costs incurred by the consulting firm NBS and attorney fees from Norton Rose Fulbright LLP.

$4,635 in expenditure appropriation from available fund balance is requested to increase the WAD Zone 2 (Subfund 4020) professional services account for the purpose of performing community requested maintenance items with unspent donation funds remaining from Fiscal Year 2023-24 budget allocation of $15,446 per agreement A-8531 approved by City Council on October 3, 2023.

Transportation Development Act (TDA) Fund (212) / Subfund (9040)
Recommend $120,000 in expenditure appropriation from the available fund balance.

The maintenance of the John C. Zaragoza Transit Oxnard Center is funded by the Transportation Development Act (TDA) Article 4 funds, administered and distributed annually by the Ventura County Transportation Commission (VCTC). This fiscal year, there are a couple of one-time projects underway at the OTC for ADA improvements and minor upgrades to the City's Electric Vehicle (EV) charging stations. To fully fund these projects, an appropriation of $120,000 is needed.

Capital Outlay Fund (301)
Recommend a total $1,157,551 in transfer in capital revenue and the corresponding capital appropriation. $1,000,000 is reflective of the Citywide Sidewalk Improvement Project (C2561) funded from the General Fund (101). $157,551 is related to an existing Measure O (Fund 104) funded project, PACC Tier 2 Seismic Evaluation (existing in M2307, but transferring to C2553, no change to project description) as part of the CIP consolidation and requires the corresponding capital transfer in and expenditure appropriation.

Developer & Other Deposits Fund (541)
Recommend a $30,000 increase in expenditure appropriation from the available fund balance. The expenditure appropriation is requested to record a transfer of developer deposits to CFD-9 (Fund 120 / Subfund 6090) to cover formation costs incurred by the consulting firm NBS and attorney fees from Norton Rose Fulbright LLP.

Environmental Resources Operating Fund (631)
Recommend $1,024,234 in expenditure appropriation. This amount reflects the reinstatement of the newly calculated Infrastructure Use Fee (IUF) for the current fiscal year. The IUF was included as part of the FY 2024-25 cost of service (COS) study completed in 2023 and used as the basis for implementing new adopted rates, but was not included as part of

the FY 2024-25 Adopted Budget due to pending litigation at the time. An updated IUF study has been completed, which updated the methodology used to calculate the IUF.

Public Liability & Property Insurance Fund (701)
Recommend $1,600,000 in expenditure appropriation from the available fund balance. Liability claims expense (which includes attorney's fees, costs, and settlement payments) has averaged around $2.5 million annually. However, in Fiscal Year 2023-24, the adopted budget for liability claims expenses was increased from $2.5 million to $4.3 million due to a large number of claims being settled in that fiscal year.

In Fiscal Year 2024-25, the adopted budget for liability claims expense was $2.9 million. However, due again to a higher than normal number of large claims being settled during the fiscal year, as of December 2, 2024, approximately $2.3 million has been spent fiscal year to date, with a remaining balance of approximately $0.6 million. It is now expected that total claims expenses will be closer to $4.5 million in Fiscal Year 2024-25. This variance is more a function of timing and when the claims are settled/paid out. Further, all of these large claims were fully expected and reserved in the liability reserve account. Therefore, staff is requesting an additional appropriation of $1.6 million to the Public Liability and Property Insurance fund in Fiscal Year 2024-25.

Facilities Maintenance Fund (735)
Recommend $178,657 expenditure appropriations from available fund balance. The Public Works Department requests appropriating $178,657 from available fund balance to ensure the division is able to maintain services and resources that are crucial to sustain and further improve operations. Utility increases in electricity, water and wastewater are projected to be higher than budget as a result of inflation.

STRATEGIC PRIORITIES

This agenda item is a routine operational item or does not relate to the five strategic priorities adopted by City Council on March 16, 2021.

FINANCIAL IMPACT

The financial impact of each recommended action is spelled out in the "Discussion" section that describes that action.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Tanya Williams, Budget Manager

ATTACHMENTS

1. FY 2024-25 Budget Mid-Year Review Presentation
2. FY 2024-25 General Fund (101) Summary of Changes

FY2024-25 MID-YEAR BUDGET REVIEW

City Council
February 18, 2025

Tanya Williams, Budget Manager

CITY OF OXNARD CALIFORNIA

RECOMMENDATIONS

The City Council:

A. Receive an update on the latest FY 2024-25 revenue and expenditure projections for major funds; and

B. Approve budget amendments in the General Fund, Street Maintenance Infrastructure Use Fee Fund, Special Districts Fund, Transportation Development Act Fund, Capital Outlay Fund, Developer & Other Deposits Fund, Environmental Resources Operating Fund, Public Liability & Property Insurance Fund, and the Facilities Maintenance Fund.

FUND BALANCE SUMMARY (IN MILLIONS)

Fund	FY25 YE Est. Revenues	FY25 YE Est. Expenditures	FY 25 Est. annual surplus/(deficit)	FY25 Beginning Unaudited FB	FY25 Projected Ending FB
101 - General Fund	237.7	289.2	(51.6)	98.4	46.9
104 - Measure O	21.1	37.0	(15.9)	29.7	13.7
601 & related - Water Funds	71.0	112.9	(42.0)	150.1	108.1
611 & related - Wastewater Funds	73.7	164.8	(91.0)	219.2	128.2
631 & related - ER Funds	62.2	64.2	(2.0)	11.8	9.8
651 - Golf	7.0	9.0	(2.1)	49.5	47.4

GENERAL FUND 101 (IN MILLIONS)

Revenues $ millions	FY24-25 Revised Budget	FY24-25 Year-End Estimate	$ Change	% Change
Property Tax & Transfer Tax	72.8	73.2	+0.4	0.6%
Sales Tax - Measure E	57.9	56.8	(1.1)	-1.9%
Sales Tax	55.7	55.7	+0.0	0.0%
Business License Tax	7.0	7.0	+0.0	0.0%
Transient Occupancy Tax	5.8	5.7	(0.1)	-1.3%
Franchise Tax	4.8	4.8	+0.0	0.0%
Cannabis Tax	1.1	1.5	+0.4	36.4%
Other Non-Tax Revenues	30.9	33.0	+2.0	6.6%
Total	**236.0**	**237.7**	**+1.7**	**0.7%**
Expenditures				
Police	85.9	87.0	+1.2	1.4%
Fire	37.5	41.3	+3.8	10.2%
Cultural and Community Svs	19.7	19.7	+0.0	0.0%
Public Works	57.9	59.1	+1.2	2.0%
Administrative Departments	45.2	44.7	(0.5)	(1.1%)
Non-Departmental	37.6	37.4	(0.2)	(0.6%)
Total	**283.7**	**289.2**	**+5.5**	**1.9%**
Net Annual Surplus / (Deficit)	**(47.8)**	**(51.6)**	**(3.8)**	

MEASURE O FUND 104 (IN MILLIONS)

Revenues $ millions	FY24-25 Revised Budget	FY24-25 Year-End Estimate	$ Change	% Change
Half Cent Sales Tax Revenue	19.3	18.4	(0.9)	-4.6%
Gen Fund Loan Receipts	1.9	1.9	+0.0	0.0%
Interest Income	0.5	0.8	+0.3	73.0%
Total	**21.6**	**21.1**	**(0.5)**	**-2.5%**
Expenditures				
Other Community Improvements	5.0	5.0	+0.0	0.0%
Parks & Open Spaces	6.0	6.0	+0.0	0.0%
Public Safety & Gang Prevention	3.5	3.5	+0.0	0.0%
Traffic & Road Improvements	22.5	22.5	+0.0	0.0%
Total	**37.0**	**37.0**	**+0.0**	**0.0%**
Net Annual Surplus / (Deficit)	**(15.4)**	**(15.9)**	**(0.5)**	

WATER FUNDS (IN MILLIONS)

Revenues $ millions	FY24-25 Revised Budget	FY24-25 Year-End Estimate	$ Change	% Change
Fees and Charges	65.9	65.9	+0.0	0.0%
Fines and Misc	0.7	0.7	+0.0	0.0%
Interest	1.9	2.0	+0.1	5.3%
Proceeds (BAB)	2.1	2.1	+0.0	0.0%
Other Revenue	0.3	0.3	+0.0	0.0%
Total (excluding CIP Transfers)	**70.9**	**71.0**	**0.1**	**0.1%**
Expenditures				
Salaries&Benefits	11.9	11.8	(0.0)	-0.2%
Supplies	3.3	3.3	(0.0)	-0.4%
Services	6.1	6.1	+0.0	0.6%
Utilities	2.2	2.2	+0.0	0.0%
Water Purchases	27.0	26.7	(0.3)	-1.0%
Maintenance	0.2	0.2	+0.0	0.0%
Financing	15.1	15.1	+0.0	0.0%
Capital Expenditures	41.3	41.6	+0.3	0.7%
Transfers Out	5.8	5.8	+0.0	0.0%
Total (excluding CIP Transfers)	**112.9**	**112.9**	**0.0**	**0.0%**
Net Annual Surplus / (Deficit)	**(42.1)**	**(42.0)**	**0.1**	

Totals shown exclude the budgeted revenue and appropriations necessary to transfer CIP funds from the Water Operating Fund (601) to the Water Capital Improvement Fund (602) for capital projects.

WASTEWATER FUNDS (IN MILLIONS)

Revenues $ millions	FY24-25 Revised Budget	FY24-25 Year-End Estimate	$ Change	% Change
Fees and Charges	45.1	40.4	(4.7)	-10.5%
Fines and Misc	0.4	0.4	+0.0	0.0%
Interest	2.0	2.9	+0.8	40.1%
Proceeds of Debt	83.2	30.0	(53.2)	-63.9%
Other Revenue	0.0	0.1	+0.1	0.0%
Total (excluding CIP Transfers)	**130.8**	**73.7**	**(57.1)**	**(43.6%)**
Expenditures				
Salaries&Benefits	13.1	12.1	(1.0)	-7.8%
Supplies	3.7	3.8	+0.1	3.3%
Services	5.1	2.9	(2.2)	-42.6%
Utilities	3.9	4.1	+0.1	3.5%
Maintenance	0.1	0.1	+0.0	42.8%
Financing	10.3	10.3	(0.0)	-0.1%
Capital Expenditures	128.0	127.8	(0.2)	-0.2%
Transfers Out	3.7	3.7	+0.0	0.0%
Total (excluding CIP Transfers)	**167.9**	**164.8**	**(3.2)**	**(1.9%)**
Net Annual Surplus / (Deficit)	**(37.1)**	**(91.0)**	**(53.9)**	

Totals shown exclude the budgeted revenue and appropriations necessary to transfer CIP funds from the Wastewater Operating Fund (611) to the Wastewater Capital Improvement Fund (612) for capital projects.

ENVIRONMENTAL RESOURCES FUNDS (IN MILLIONS)

Revenues $ millions	FY24-25 Revised Budget	FY24-25 Year-End Estimate	$ Change	% Change
Fees and Charges	58.2	61.3	+3.1	5.3%
Fines and Misc	0.3	0.3	+0.0	0.0%
Interest	0.5	0.4	(0.0)	-6.7%
Other Revenue	0.2	0.2	+0.0	0.0%
Total (excluding CIP Transfers)	**59.2**	**62.2**	**3.1**	**5.2%**
Expenditures				
Salaries&Benefits	26.1	25.6	(0.5)	-2.0%
Supplies	2.0	2.0	+0.0	0.0%
Services	2.5	2.5	+0.0	0.0%
Utilities	15.3	15.3	+0.0	0.0%
Maintenance	0.4	0.4	+0.0	0.0%
Financing	3.4	3.4	+0.0	0.0%
Capital Expenditures*	7.8	3.4	(4.4)	-56.7%
Infrastructure Use Fee (IUF)	0.0	1.0	+1.0	0.0%
Transfers Out	10.5	10.5	+0.0	0.0%
Total (excluding CIP Transfers)	**68.1**	**64.2**	**(3.9)**	**(5.8%)**
Net Annual Surplus / (Deficit)	**(8.9)**	**(2.0)**	**+7.0**	

Totals shown exclude the budgeted revenue and appropriations necessary to transfer CIP funds from the Solid Waste Operating Fund (631) to the Solid Waste Capital Improvement Fund (632) for capital projects.

*Capital Expenditures Year-End estimate reflects actual FY24-25 anticipated spending, which may differ from available budgeted project balances at year-end eligible for carryover to FY25-26

GOLF FUNDS (IN MILLIONS)

Revenues $ millions	FY24-25 Revised Budget	FY24-25 Year-End Estimate	$ Change	% Change
Fees and Charges	6.5	6.5	+0.0	0.0%
Misc Revenue	0.3	0.3	+0.0	0.0%
Interest Income	0.2	0.2	+0.0	30.4%
Total (excluding CIP Transfers)	**6.9**	**7.0**	**0.0**	**0.7%**
Expenditures				
Salaries&Benefits	0.0	0.0	+0.0	0.0%
Supplies	0.3	0.3	+0.0	0.0%
Services	4.8	4.8	+0.0	0.0%
Utilities	0.7	0.7	+0.0	0.0%
Maintenance	0.0	0.0	+0.0	0.0%
Financing	0.2	0.2	+0.0	0.0%
Insurance	0.1	0.1	+0.0	0.0%
Capital Expenditures	2.6	2.6	+0.0	0.0%
Transfers Out	0.2	0.2	+0.0	0.0%
Total (excluding CIP Transfers)	**9.0**	**9.0**	**0.0**	**0.0%**
Net Annual Surplus / (Deficit)	**(2.1)**	**(2.1)**	**0.0**	

Totals shown exclude the budgeted revenue and appropriations necessary to transfer CIP funds from the Golf Operating Fund (651) to the Golf Capital Improvement Fund (652) for capital projects.

FY 2024-25 BUDGET AMENDMENTS – RECOMMENDATION

- General Fund
  - $1,692,362 increase in revenues and $5,459,247 increase in expenditure appropriations, for a net $3,766,885 use of surplus fund balance
- Street Maintenance Infrastructure Use Fee (IUF)
  - $1,024,234 increase in revenue to reflect the IUF to be collected from the Environmental Resources Fund
- Special Districts Fund
  - $30,000 increase in revenue and $34,635 increase in expenditure appropriation for a net $4,635 use of available fund balance
- Transportation Development Act Fund
  - $120,000 increase in expenditure appropriation from available fund balance
- Capital Outlay Fund
  - $1,157,551 increase in both revenue and expenditure appropriations

FY 2024-25 BUDGET AMENDMENTS – RECOMMENDATION

- Developer & Other Deposits Fund
  - $30,000 increase in expenditure appropriation from available fund balance
- Environmental Resources Operating Fund
  - $1,024,234 increase in expenditure appropriation to reflect the IUF to be paid to the Street Maintenance Infrastructure Use Fee fund
- Public Liability & Property Insurance Fund
  - $1,600,000 increase in expenditure appropriation from available fund balance
- Facilities Maintenance Fund
  - $178,657 increase in expenditure appropriations from available fund balance

The City Council:

A. Receive an update on the latest FY 2024-25 revenue and expenditure projections for major funds; and

B. Approve budget amendments in the General Fund, Street Maintenance Infrastructure Use Fee Fund, Special Districts Fund, Transportation Development Act Fund, Capital Outlay Fund, Developer & Other Deposits Fund, Environmental Resources Operating Fund, Public Liability & Property Insurance Fund, and the Facilities Maintenance Fund.

CITY OF
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QUESTIONS

ATTACHMEMNT 2

Mid-Year FY 2024-25
General Fund recommended changes
In revenue and expenditure
appropriations

Revenues $ Millions	**$ Change**
Property Tax & Transfer Tax – updated VLF & transfer tax estimates	**+0.4**
Sales Tax - Measure E	**(1.1)**
Decrease due to an estimated reduction on disposable income for taxable spending as a result of higher consumer spending on services (not taxable) rather than taxable goods, and overall increased risk factor given federal and state funding uncertainties	
Cannabis Tax	**+0.4**
Updated cannabis business tax estimate	*+0.4*
Other Non-Tax Revenues	**+2.0**
Increase in mutual aid reimbursement	*+1.5*
Other general fund revenues	*+0.5*
Total Revenue Change	**+1.7**
Expenditures $ Millions	**$ Change**
Police	**+1.2**
Anticipated increase in Police department overtime due to backfilling of vacant positions	*+1.2*
Fire	**+3.8**
Unbudgeted expenditures related to mutual aid response	*+2.5*
Unrealized vacancy related savings	*+1.7*
Increased funding needs for equipment, maintenance, services, and grant matching funds	*+0.6*
Anticipated overtime savings	*(0.9)*
Public Works	**+1.2**
Sidewalk Repairs Citywide capital project	*+1.0*
Illegal dumping abatement program	*+0.2*
Other Departments	**(0.7)**
Housing - Homeless encampment abatement needs for the remainder of FY24-25	*+0.1*
All Other dept's - Vacancy savings and reduced spending on professional contracts	*(0.8)*
Total Expenditure Change	**+5.5**
Net Recommended Use of Surplus General Fund (101) Fund Balance	**+3.8**

CITY OF OXNARD CALIFORNIA

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. M.4

DATE: February 18, 2025

TO: City Council

FROM: Steve Naveau, Human Resources Director, (805) 385-7947, steve.naveau@oxnard.org

SUBJECT: Memorandum of Understanding - Oxnard Public Safety Managers Association. (10 minutes)

RECOMMENDATION

That the City Council of the City of Oxnard adopt a Resolution approving the attached tentative agreement between the City of Oxnard and the Oxnard Public Safety Managers Association (OPSMA) that are proposed to be integrated with the terms of the existing Memorandum of Understanding (MOU) between the City and OPSMA. The integrated document shall be the successor MOU for the term July 1, 2024 through June 30, 2027.

(This item did not originate in Committee)
Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/giD9fekDQVA

BACKGROUND

The Oxnard Public Safety Managers' Association ("OPSMA") represents 20 employees in the ranks of Police Commander, Assistant Police Chief, Fire Battalion Chief, and Assistant Fire Chief. The attached Resolution and tentative agreement contain the new terms and conditions of employment for employees represented by the OPSMA and are proposed to be integrated with the terms of the existing MOU. The integrated document shall be the successor MOU for the term of July 1, 2024 through June 30, 2027.

Health Benefits

Like many public agencies, the City contracts with CalPERS for medical insurance. CalPERS negotiates directly with a variety of health insurance plans to obtain the most cost-effective rates for its member agencies. Even with this large negotiating power, health care continues to increase at a steady pace with the average increase for medical insurance being 8% per year.

In 2018, the City took the step to increase the City's contribution towards medical coverage, with the intent of providing a benefit that could cover a family plan in at least one medical plan option. That continues to be a guiding principle in the negotiations.

In alignment with this principle, the City and the OPSMA have agreed that the City's contribution towards medical insurance for employees will increase by 5% per year over the three-year term of the contract.

Salary Range Increase

To maintain competitiveness in the labor market, in June 2024, the Council voted to increase the salary range of the Oxnard Peace Officers Association by a total of 18% over three years, which is the subordinate bargaining unit to the Police Commanders and Assistant Police Chiefs. The increase proposed in the OPSMA agreement, which depending on classification ranges from 12.14% to 14.6% over three years, is intended to maintain enough of a salary differential between supervisors and subordinates so that employees will continue to be interested in promoting to higher level positions.

One-Time Annual Retention Payment
As has been discussed a number of times, the recruiting market for police officers is extremely difficult. This is not just an issue with the City of Oxnard, but rather a national issue. The City receives about 50% fewer applicants per year than it did prior to the pandemic. Jurisdictions across the state are extending hiring bonuses from as low as $10,000 to as high as $75,000 in an attempt to lure officers from their current employers.

The Council approved the City to offer a hiring bonus of $20,000 in an effort to bring more experienced officers to Oxnard. The proposed retention payments which total $16,000 over three years are intended to entice more experienced officers at these higher levels to remain with the City rather than opting to retire. By extending officer retirements the City gains time to hire, develop, and train officers to step into these more senior roles. This is just one prong in a multi-pronged approach to address shrinking officer candidate pools.

Standby
Currently, when certain Police Commanders end their regular shift, they immediately begin to work standby. This means the Commander must be available to immediately return to work if required. The three assignments: Special Operations, Investigations, and Professional Standards are multiyear assignments and so have an impact on an officers off-duty activities. The $2 per hour is a means for the City to acknowledge the impact this assignment has on both officers and their families. This will cost the City $39,000 annually.

Holiday Hours
The City is bringing this group into alignment with the same holiday schedule as what the majority of employees in the City currently have. In this instance, it is the inclusion of the day after Thanksgiving as a regular holiday.

Annual Leave Redemption
Employees are allowed to sell back some of their annual leave each year. There is no change in the number of hours per fiscal year that an employee may sell hours back. Prior language provided a window period (January and December) for this to occur. The proposed change only affects <u>when</u> the employee may sell back the hours.

Reopener
The City has agreed to reopen the MOU in the event that the International Association of Firefighters (IAFF), who represent the City's Firefighters, receive increases in their salary ranges in excess of 6% over calendar year 2025 and 2026. This reopener does not bind the City to making any adjustments, but rather provides that the parties will come back to the bargaining table to discuss those increases and potentially agree to some sort of adjustment that would return to Council for review and approval.

Fire Battalion Chief/Assistant Fire Chief Additional Work Hours
This is clean up language specific to the rate of pay that Battalion Chiefs and Fire Chiefs may receive when working a mutual aid assignment.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

The total estimated cost of this package for OPSMA for the 3-year period is $869,121. This amounts to approximately 15.09% of total compensation, or an average of 5.03% per year. The entirety of this package is attributable to the General Fund. One-time retention bonuses during the term of the MOU totaling $320,000 do not continue after FY 26-27. As a result, the net ongoing impact of the MOU starting in FY 27-28 is $549,121.

Labor Costing Methodology vs. Budget Methodology
As staff has shown in prior MOU-related agenda reports, the financial impact may be depicted in two ways. One is a year over year cost increase, which is what is used predominantly in the labor relations field. There are jurisdictions within

Ventura County that depict their employee costs in this manner. This methodology shows what the increased cost is as compared with the previous year. Using this methodology, the impact in Year 1 will be $282,524, the impact in Year 2 will be an additional $280,690, and the impact in Year 3 will be a further $305,907, for a total impact of $869,121 over the 3-year term, as shown in the chart below.

The other methodology is more common for budget and finance professionals, who compare all the financial costs of that contract to the year before the contract becomes effective (Base Year). This methodology compounds the increased costs over the term of the entire contract. In the case of the resolution presented here, this would be comparing the increase in costs in Year 1 to the budgeted cost of OPSMA in the Base Year, the increase in costs in Year 2 to the budgeted cost of OPSMA in the Base Year, and the increase in costs in Year 3 to the budgeted cost of the group once again in the Base Year. Using this methodology, the budget impact in Year 1 will be $282,524, the impact in Year 2 will be $563,214, and the impact in Year 3 will be $869,121, for a total cumulative 3-year impact of $1,714,859 as shown in the chart below.

OPSMA MOU Impacts	**FY 24-25**	**FY 25-26**	**FY 26-27**	**Total**	(Contract Expired) **FY 27-28**
Labor Methodology	**$ 282,524**	**$ 280,690**	**$ 305,907**	**$ 869,121**	**$ 549,121** (a)
% Increase	4.91%	4.87%	5.31%	15.09%	9.53%
Budget Methodology	**$ 282,524**	**$ 563,214**	**$ 869,121**	**$ 1,714,859**	
% Increase	4.91%	9.78%	15.09%		

(a) One-time retention payments during the term of the agreement totaling $320,000 do not continue after FY 26-27. Therefore, the net ongoing impact of the MOU beginning in FY 27-28 is $549,121.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Steve Naveau, Human Resources Director

ATTACHMENTS

1. OPSMA MOU Resolution.v2
2. Attachment 1 OPSMA TA
3. Presentation

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD APPROVING THE SUCCESSOR MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF OXNARD AND THE OXNARD PUBLIC SAFETY MANAGERS ASSOCIATION AUTHORIZING THE CITY MANAGER OR DESIGNEE TO TAKE THE NECESSARY ADMINISTRATIVE ACTIONS TO IMPLEMENT THE AGREEMENT

WHEREAS, the Oxnard Public Safety Managers Association is the recognized representative for Police Commanders, Assistant Police Chiefs, Fire Battalion Chiefs, and Assistant Fire Chiefs; and

WHEREAS, the City's memorandum of understanding with the Oxnard Public Safety Managers Association expired June 30, 2024; and

WHEREAS, representatives of the City met and conferred in good faith with representatives of the Oxnard Public Safety Managers Association concerning wages, hours, terms, and conditions of employment for employees in the bargaining unit consistent with their obligations under the Meyers-Milias-Brown Act; and

WHEREAS, the City has reached a tentative agreement with the Oxnard Public Safety Managers attached as Attachment 1 of this Resolution which sets forth the modified terms and conditions of employment for this bargaining unit.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD RESOLVES that the tentative agreement attached as Attachment 1 is adopted and the City Manager and/or his designee is directed to perform all acts necessary to implement its terms, including but not limited to executing the successor Memorandum of Understanding with the Oxnard Public Safety Managers Association on behalf of the City.

PASSED AND ADOPTED this 18th day of February 2025, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Luis McArthur, Mayor

ATTEST:

_____
Lourdes A. Lopez, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

City of Oxnard/OPSMA Contract Negotiations
Total Tentative Agreement

Term:
3 Year Term - July 1, 2024 through June 30, 2027

Modify Section 2. Medical Cafeteria
Effective the first full pay period of January 2025 (PP25-2 pay date of 1/24/2025), the City will increase its contribution by 5% per year for those employees in the Level Two medical plan. The new City contribution is as follows and reflects the 5% increase each year:

January 2025 – $1,956
January 2026 – $2,053
January 2027 - $2,156

Modify Section 13 as follows:
Effective the first full pay period of January 2025 (PP25-2 pay date of 1/24/2025), the City shall increase the top of the salary ranges as provided below, including any retroactive pay for employees who did not receive an annual wage increase. In 2026 and 2027 the increases as provided below will occur in the first full pay period of January.

Classification	2025	2026	2027
Police Commander	4.8%	4.8%	4.85%
Assistant Police Chief	4%	4.05%	4.09%
Battalion Chief	9.3%	2.41%	2.43%
Assistant Fire Chief	9.82%	2.02%	2.04%

One-Time Annual Retention Payment
To retain highly qualified management staff the City will provide three annual one-time payments under the following conditions:

To be eligible for the payments described below, the employee must not have received a similar one time payment in a subordinate bargaining unit within the same fiscal year.

- The first full pay period following adoption of the MOU by Council the City shall provide a one-time payment of $8,000.
- The first full pay period of January 2026 the City will provide a one-time payment of $5,000.
- The first full pay period of January 2027 the City will provide a one-time payment of $3,000.

Standby

The City shall provide standby pay of $2 per hour for Police Commanders who are assigned to one of three division commander assignments, which are: Special Operations, Investigations, and Professional Standards. Police Commanders are only eligible for the $2 per hour for time subject to call back outside of their regularly scheduled work hours. Police Commanders shall not receive standby when they are actually (physically) responding. Police Commanders not assigned to these three positions may receive on-call compensation when covering for the assigned Police Commander when they are not available. One Police Commander per division assignment is eligible to receive the standby pay at a given time. Police Commanders may not receive standby pay by being on call for more than one division assignment.

Holiday Hours

The City shall add the Day after Thanksgiving as a holiday beginning in 2025. For 56-hour employees, the bi-weekly leave accrual shall increase by .923 hours, and maximum leave balances shall be increased accordingly.

Reopener

The City agrees to reopen the OPSMA contract if the IAFF agreement contains increases in the top of the salary range of more than 3% in 2025, and 2026 for a cumulative amount of 6%.

Annual Leave Redemption

OPSMA members shall be permitted to sell back annual leave anytime throughout the fiscal year, provided they do not exceed a total of 160 hours for 40-hour employees and 224 hours for 56-hour employees.

Fire Battalion Chief/Assistant Fire Chief Additional Work Hours

Upon ratification, 40-hour Battalion Chiefs who are deployed on mutual aid assignments shall receive their suppression rate of pay at 1.5 times for all hours worked outside of their regular schedule. An employee who is on a suppression shift and is ordered to work a non-suppression assignment will be paid at their administrative rate of pay while working the non-supression hours.

For City of Oxnard

For OPSMA

MEMORANDA OF UNDERSTANDING - OXNARD PUBLIC SAFETY MANAGERS ASSOCIATION

Presented to: City Council

Steve Naveau, Human Resources Director

February 18, 2025

CITY OF OXNARD CALIFORNIA

BACKGROUND

- Purpose
  - To adopt successor Memoranda of Understanding (MOUs) with the Oxnard Public Safety Managers Association.
    - This group represents 20 employees
    - Employees in this unit consist of Police Commanders, Fire Battalion Chiefs, Assistant Police Chiefs, and Assistant Fire Chiefs

ISSUES ADDRESSED DURING BARGAINING

- Health Benefits
- Market Adjustment
- Retention Payments
- Standby Pay
- Holiday Hours
- Annual Leave Redemption
- Fire Battalion Chief Additional Hours (Mutual Aid)
- Reopener Clause

ISSUES ADDRESSED DURING BARGAINING

- Medical Plan
  - Philosophy – The City should contribute money to a medical insurance plan so that coverage is affordable & treat all bargaining groups the same.
  - Intent is to provide sufficient dollar to allow employees to cover a family in at least one medical plan option.
  - City contribution should keep pace with annual insurance premium increases to maintain affordability.
    - Kaiser plan generally increases by 5% per year

ISSUES ADDRESSED DURING BARGAINING

- Market Adjustment
  - Jurisdictions in surrounding area have had significant increases in their pay ranges.
  - Other local jurisdictions have consistently outpaced this group in salary.
  - This adjustment is to the top of the range which only impacts those employees who are at the rate of pay.
  - This is needed to remain competitive in the tight labor market.

ISSUES ADDRESSED DURING BARGAINING

- Retention Payments
  - The City will make three one time payments to employees based on their prior 12 months of service.
  - Payments are a flat dollar amount. Payments occur in each calendar year and are $8,000 in 2025, $5,000 in 2026, and $3,000 in 2027.
  - Payments are not reportable to CalPERS.
  - These payments are intended to maintain our current staffing and keep employees from moving to jurisdictions that are proving hiring incentives.
- Standby Pay
  - Commanders assigned to one of three qualified assignments will receive $2 per hour in standby pay while not engaged in their work as a Police Commander.
  - The Commanders in these assignments have specialized knowledge needed by the City in the event of an emergency and are subject to being called back into work at any time.

ISSUES ADDRESSED DURING BARGAINING

- Holiday Hours
  - This provision adds the “Day After Thanksgiving” as a holiday which is the same holiday as most other City employees.
- Annual Leave Redemption
  - This new language allows employees to cash out their leave at any point in the calendar year. Current language sets window periods which were intended to assist with workload in Payroll which is no longer needed.
  - This is not an increase in the actual benefit.

- Fire Battalion Chief Additional Work Hours

  The new language seeks to create equity in Battalion Chief rates of pay when they are responding to mutual aid requests. The current language allows a Battalion Chief who works an administrative shift to receive a higher hourly rate of pay than their colleagues. This serves to maintain equity between employees working the administrative shift and suppression shift.

- Reopener
  - The City and OPSMA agree to reopen the contract concerning wages should the International Association of Firefighters (IAFF) secure a contract with salary increases totaling more than 3% per year over the two year period.
  - This language does not require the parties to reach agreement, but it does require the parties to negotiate over wages if the conditions are met.

FISCAL IMPACT

- Using the labor costing methodology, the total estimated cost of this package for the upcoming 3-year period is $869,121.
  - 15.09% of total compensation / 5.03% per year
- Due to the use of one time retention payments, the net ongoing impact starting in FY 27/28 is $549,121 or 9.53%.
- The cost of this contract has been assumed in the budget forecasts and as such no additional appropriations are needed.

FISCAL IMPACT (CONT)

OPSMA MOU Impacts	FY 24-25	FY 25-26	FY 26-27	Total	(Contract Expired) FY 27-28
Labor Methodology	**$ 282,524**	**$ 280,690**	**$ 305,907**	**$ 869,121**	**$ 549,121** (a)
% Increase	4.91%	4.87%	5.31%	15.09%	9.53%
Budget Methodology	**$ 282,524**	**$ 563,214**	**$ 869,121**	**$ 1,714,859**	
% Increase	4.91%	9.78%	15.09%		

(a) One-time retention payments during the term of the agreement totaling $320,000 do not continue after FY 26-27. Therefore, the net ongoing impact of the MOU beginning in FY 27-28 is $549,121.

- The **Labor Methodology** illustrates the cost increase in each year independently as a percentage of base compensation.
- The **Budget Methodology** compounds the increased cost over the term of the entire contract as a percentage of base compensation.

CITY OF
OXNARD
CALIFORNIA

QUESTIONS

CITY COUNCIL AGENDA REPORT

REPORTS
AGENDA ITEM NO. M.5

DATE: February 18, 2025

TO: City Council

FROM: Stephen Fischer, City Attorney, (805) 385-7483, stephen.fischer@oxnard.org

SUBJECT: Implementation of Specific Provisions of the Court of Appeal's Decision Regarding the City Treasuer

RECOMMENDATION

That the City Council:

Approve the first reading by title only and waive further reading of an ordinance titled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING SPECIFIC PROVISIONS OF THE OXNARD CITY CODE TO TRANSFER THE DUTIES RELATING TO THE COLLECTION OF FEES AND TAXES FROM THE CITY TREASURER TO THE POLICE CHIEF, AND MODIFY THE PROCEDURE FOR THE PAYMENT OF DEMANDS, WARRANTS AND CHECKS SO THAT CERTAIN DUTIES HELD BY THE CITY TREASURER ARE TRANSFERRED TO THE ASSISTANT CITY TREASURER

or

Alternatively, although not recommended by City staff, direct staff to return with the necessary proposed ordinance and resolution to reorganize and reinstate the duties of the City Treasurer, so the person in that position will serve as the administrative head of staff now associated with the separate Division of Billing and Licensing and as a department head.

(This item did not originate in Committee)

Please click the following link to view the required Measure M pre-recorded presentation video: https://youtu.be/iLBNrcxJ9GA

BACKGROUND

EXECUTIVE SUMMARY

In 2020, the City Council removed City Treasurer Phillip Molina's administrative functions after an independent investigator confirmed the complaints of City staff that Molina had (among other things):

1. Violated the City's sexual harassment and anti-bullying policies by making inappropriate and impermissible comments regarding female employees' appearance, attire, and role within the workplace. These comments included statements laced with sexual innuendo and stereotypical comments such as suggesting to female employees that they "go home and cook dinner for their husbands."
2. Used "keyboard warfare" by sending misleading emails to the public to bully City employees and enhance his image at the expense of employees, and accused employees of misconduct with no basis in fact.
3. Accused and improperly investigated an employee for theft when no theft occurred.

4. Interfered with the investigation by sending emails to staff about the ongoing investigation and inappropriately discussing it with staff members. (Attachment 3.)

Molina sued the City and – in 2023 – the Superior Court ruled in favor of the City. (Attachment 4.) Molina then appealed that decision and prevailed at the appellate court. (Attachment 5.)

The appellate court decision and judgment (Attachment 6) provide a clear roadmap for actions that the City must take as well as a few options for the City as it relates to modifying the duties of the City Treasurer. City staff recommends that the City Council adopt an ordinance that makes these changes transferring the collector functions and the duties associated with warrants and checks – as it is legally allowed to do, consistent with the provisions of state law, the appellate decision and the judgment in the case. City staff also believe that the recommended adoption of the ordinance is prudent and necessary based upon the findings made by the 2020 independent investigator discussed in more detail.

BACKGROUND

When Phillip Molina was elected as City Treasurer for the City of Oxnard in November 2016, the position of the City Treasurer had two separate and distinct functions – statutory duties and administrative duties. The statutory duties outlined in the California Government Code do not grant a City Treasurer (whether elected or appointed) the right to supervise employees or manage a department. The City Treasurer's administrative duties are assigned and managed by the City Manager. When Molina commenced employment with the City in 2016 as the elected City Treasurer, he signed a letter that specifically informed him that City Manager Greg Nyhoff assigned all administrative duties and that these duties included management of the treasurer's department. (A copy of this letter is included as Attachment 1.) In other words, state law does not require that the City Treasurer perform these duties – instead, they may be assigned by City management.

On December 4, 2018, City Manager Alex Nguyen reprimanded Molina for his email practices and violations of the City's Code of Conduct policy, and instructed him to follow the City's policies regarding the use of technology. (A copy of the letter of reprimand is located at Attachment 2 and outlines the history of Molina's improper e-mail practices in violation of City policy.) However, Molina refused to comply with the City Manager's written directives.

In August 2019, City employees made complaints that Molina harassed and bullied them by e-mail and other means. One employee reported that he improperly accused and investigated her for theft. Employees also complained that Molina exceeded the scope of his position as City Treasurer and interfered in other City departments. As a result of these complaints, the City retained an outside law firm to investigate the allegations.

In September of 2019, the City Manager informed Molina of the investigation. According to standard investigatory protocol, he was instructed not to contact the complaining employees, to cooperate with the investigator, and to not interfere with the investigation. However, shortly after receiving this directive, he violated it by publicly naming one of the complainants and continuing to send her emails. He also called a staff meeting for the purpose of discussing the investigation, which was perceived by some of the employees as an attempt to intimidate them. Once the investigator began interviewing employees, women who worked in the Treasurer's Department complained that Molina made inappropriate comments about their dress and appearance and other matters. These allegations were added to the investigation.

Over the next five months, the independent investigator conducted interviews of 41 City employees across multiple departments and ranks, and conducted a comprehensive review of documents and emails. Even though Molina was instructed to cooperate with the investigator, he refused to be interviewed for longer than four hours.

Investigation Findings

On February 10, 2020, the investigator submitted an 83-page report entitled "Confidential Investigative Report Regarding Allegations Against Philip Molina, the City Treasurer, Prepared for the City of Oxnard." (A redacted copy of the report is located at Attachment 3.)

The investigator concluded that Molina engaged in misconduct as to seven of the nine matters investigated based upon a preponderance of the evidence, including:

- Molina violated the City's sexual harassment and anti-bullying policies by making inappropriate and impermissible comments regarding female employees' appearance, attire, and role within the workplace. These comments included statements laced with sexual innuendo and stereotypical comments such as suggesting to female employees that they "go home and cook dinner for their husbands." (Attachment 3, pp. 20-36.)
- 17 of 19 Treasurer's Department employees confirmed he made inappropriate comments, and Molina himself admitted that he made many of the objectionable comments. (Attachment 3, pp. 21.)
- He accused and improperly investigated an employee for theft when no theft occurred.
- Molina interfered with the investigation by sending emails to staff about the ongoing investigation and inappropriately discussing it with staff members. (Attachment 3, pp.11-19)
- He used "keyboard warfare" by sending misleading emails to the public to bully City employees and enhance his image at the expense of employees, and accused employees of misconduct with no basis in fact. (Attachment 3, pp. 37-51; 58-72)
- He exceeded the scope of his position as Treasurer, injecting himself into issues involving both the Finance and Public Works Departments without the authority to do so. (Attachment 3, pp. 78-82)

The redacted investigative report was made available to the public in 2020 pursuant to multiple Public Records Act requests. The report has been publicly available online since May 6, 2020, when the *Ventura County Star* published it as part of an article regarding Molina. (https://www.vcstar.com/story/news/local/2020/05/06/oxnard-council-strips-city-treasurer-phil-molina-administrative-duties/3077770001/.

Once the City Manager completed his review of the report (including the investigator's findings), the City Manager removed Molina's administrative duties as City Treasurer on March 27, 2020. In response, on April 7, 2020, at the outset of the Covid epidemic, Molina's attorney demanded that the City "cease and desist" from using Molina's signature on any mode of payment —including on employee payroll checks—unless Molina was once again allowed to review the check register and supporting documents.

The City Council then took a series of actions on May 5, 2020, to clarify statutory duties of the elected City Treasurer and reassign administrative duties formally associated with the elected office of the City Treasurer.

- **Adopted Resolution No. 15,324:** Transferred signing authority from the City Treasurer to the Assistant City Treasurer along with the Chief Financial Officer or the Assistant Chief Financial Officer so that the City Treasurer could no longer threaten to refuse to sign checks to pay the City's outstanding bills and payroll.
- **Adopted Resolution No. 15,325:** Reduced the salary of the City Treasurer equal to that of the City Councilmembers given the removal of his administrative duties (effective once the City Council declared the results of the canvass of the returns for the November 2020 municipal election).
- **Adopted Ordinance No. 2977:** On May 19, 2020, assigned the Assistant City Treasurer as the city's license collector in place of the City Treasurer and repealed city code sections that provided that the City Treasurer serve as the head of the City Treasurer's Office.
- **Adopted the FY 20-21 Budget**: On June 30, 2020, established a separate Department of Billing and Licensing, that included the 19 positions and funding that was previously associated with the City Treasurer's Office in order to remove all supervisory duties from the City Treasurer.

Litigation Timeline

Molina subsequently filed a legal action on June 2, 2021 challenging the City's actions. Ventura County Superior Court Judge Mark Borrell ruled in favor of the City and the City Manager on February 14, 2023. (A copy of the decision is attached as Attachment 4.)

Molina appealed the trial court's decision and on August 7, 2024, the Second District Court of Appeal, Division Six, issued its decision (the "Opinion"). (A copy of the Opinion is attached as Attachment 5). In its unpublished Opinion, the appellate court overturned Judge Borrell's decision.

After the Court of Appeal's decision of August 7, 2024, the City petitioned for further review by the California Supreme Court. After the California Supreme Court declined to review the case, the Court of Appeal issued an order on October 24, 2024, indicating that the decision was final and remanded (sent) the case back to the trial court (Ventura County Superior Court Judge Borrell) for the entry of the final judgment.

Although Judge Borrell ordered that Molina prepare the proposed judgment and writ of mandate in this case, multiple hearings and drafts of the judgment and writ of mandate were necessary because Molina sought to add language on multiple occasions that went well beyond the scope of the Court of Appeal's decision and authority of state law. These included proposed language to:

1. Require that the City "[h]ire as the deputy city treasurer the person selected by the city treasurer pursuant to Government Code sections 41006 and 41007, at a salary within the present salary range for the position of Assistant City Treasurer ($127,836-$204,538.67 annually)." .
2. Require that the City "[r]estore the Treasurer's Department, with budget and staffing equal to or greater than existence in fiscal year 2019-2020, subject to oversight by the city treasurer."
3. Require that the City "[a]uthorize the city treasurer to hire outside legal counsel to advise the city treasurer from time to time with respect to legal matters pertaining to the city treasurer's statutory duties, and include in the Treasurer's Department budget, or otherwise budget for, sums sufficient to pay for such outside legal services."
4. Have the City Treasurer "[d]etermine who will serve as the signers and countersigners for the issuance of checks, warrants and wires disbursing city funds and control the use of facsimile signature plates, stamps and cylinders for those purposes."
5. "Direct the City of Oxnard chief financial officer, finance director and all finance and administrative staff to assist the city treasurer to accomplish the city treasurer's statutory duties and responsibilities[ ]".

These requests and others were rejected by Judge Borrell. Finally, on January 17, 2025, Judge Borrell issued the final ruling in this case, rejecting Molina's additional requests that the City pay (1) CalPERS amounts that CalPERS might demand for reimbursement of retirement payments made to Molina during the period of his reduced duties and compensation; and (2) "additional amount necessary to offset petitioner's [Molina's] increased tax liability resulting from the lump sum payment [of back salary] as compared to what petitioner would have owed in taxes if the compensation had been received sequentially each year."

Judge Borrell subsequently entered judgment on January 29, 2025. (A copy of the judgment and writ of mandate are attached as Attachment 6.)

DISCUSSION

While the court ruled in the judgment and writ of mandate that specific ordinances and resolutions challenged by Molina were void, the court in the appellate decision and the judgment provided a clear roadmap for specific actions that the City could take as it relates to modifying the duties of the City Treasurer in the future.

A. *The Collector Duties*.

As outlined by the Court of Appeal, the City has the discretion to designate the Police Chief as the "collector" or "license collector" for licensing and permitting functions, including the collection of city taxes and license fees. The 1949 law that enacted Government Code Section 41607 (based upon a law first enacted in 1883) provides the authority for the appellate court's conclusion that an official other than the city treasurer can fulfill these duties.

On page six of the Opinion, the appellate court stated:

> "Molina does not contend that only the treasurer can collect city taxes and fees. Molina concedes that the chief of police can also collect taxes and fees."

The appeals court went on to state (in pertinent part):

> "... the duty to collect taxes may be transferred by ordinance to the chief of police…"

In both the final judgment and writ of mandate issued in the case, the court stated: "The City may in its discretion transfer those duties as authorized by law."

In addition to specifically being authorized by state law as confirmed in the appellate court's Opinion and the final judgment in the case, the assignment of such duties to the Chief of Police is prudent and necessary based upon the findings made by the 2020 independent investigator discussed above. Therefore, City staff recommend that the City Council adopt an ordinance assigning collector duties to the Chief of Police by amending various provisions of the Oxnard City Code relating to the "collector" and the "license collector". The Chief of Police would then oversee the day-to-day activities of the existing professional City staff who currently provide these duties for the City.

B. *Duties associated with Warrants and Checks*

Another duty at issue in the litigation is who would oversee the processing and payment of warrants and checks. The appellate court concluded that the transfer of these duties from the City Treasurer to another official was authorized by state law. First, on page 8 of the Opinion, the appellate court cited Government Code Section 53910:

> "'...the governing body of the appropriate issuing officer, may by resolution authorize practices with respect to form, issuance, delivery, endorsement of warrants it deems convenient, efficient and in the public interest.'"

Second, on page 8 of the Opinion, the appellate court stated:

> "Arguably [Government Code] section 53910 allows the City to establish its own procedure for the payment of warrants. That would include transferring the duties provided in [Government Code] section 41003 to the assistant treasurer."

Later in the Opinion, the court went even further. On page 10, the court stated:

> "But none of the statutes on which Molina relies provide that the treasurer must be one of the persons legally designated to sign warrants and financial instruments."

On the same page of the Opinion, the court quoted Government Code Section 37203:

> "'The legislative body, by ordinance or resolution, may prescribe an alternative method of drawing warrants and checks.'"

The court then went on to conclude:

> "...Nothing in this section [Government Code Section 37203] requires the treasurer to sign the warrant. The section expressly authorizes the city's legislative body to designate the persons who can sign warrants and checks."

Finally, in both the final judgment and writ of mandate issued in the case, the court stated: "The City may in its discretion establish its own procedure for the payment of warrants to the extent allowed by law. (Gov. Code § 53910.)"

Staff recommends that the City Council amend Oxnard City Code Sections 2-184 and 2-186 to make clear that the Assistant City Treasurer (instead of the City Treasurer) is the person authorized to oversee the process for the payment of warrants and checks; such recommendation is based on (1) the clear legal authority cited in the appellate Opinion; (2) the court's corresponding final judgment and writ of mandate in this case; and (3) the findings of the outside investigator discussed above.

C. *Compliance with Judgment*

If the City Council introduces and adopts the ordinance recommended in this staff report and such ordinance goes into effect, then the City will be in compliance with the judgment and the writ of mandate in the following manner (City action/response in italics):

1. The judgment entered on March 7, 2023 [by Judge Borrell] is vacated. ***No City action is required for this to occur. The appellate decision vacated the March 7, 2023 judgment, as did the judgment filed on January 29, 2025.***

2. The petition for writ of mandate is granted. ***No City action is required for this to occur given the judgment granted the petition for writ of mandate.***

3. City of Oxnard Ordinance No. 2977 is hereby declared void and unenforceable. ***While the judgment declared Ordinance No. 2977 void, the proposed ordinance also repeals Ordinance No. 2977.***

4. Section 2-44(C) of part 1 of City of Oxnard Ordinance No. 2643 is hereby declared void and unenforceable. ***While the judgment declared Section 2-44(C) of City of Oxnard Ordinance No. 2643 void, the proposed ordinance also repeals Oxnard City Code Section 2-44(C).***

5. City of Oxnard Resolution No. 15,324 is hereby declared void and unenforceable. ***The judgment declares Resolution No. 15,324 void. In addition, the proposed ordinance repeals Resolution No. 15,324.***

6. City of Oxnard Resolution No. 15,325 is hereby declared void and unenforceable. ***The judgment declares Resolution No. 15,325 void. In addition, the proposed ordinance repeals Resolution No. 15,325.***

7. Petitioner's [Molina's] duty as city treasurer are restored, as specified below. ***The City will be in compliance as outlined below.***

8. Petitioner's compensation is restored to his compensation as of December 2020 (prior to the City Council's adoption of its resolution declaring the results of canvass of the returns for November 2020 municipal election), retroactive to January 2021. ***Molina received his back pay totaling $448,767.36 on September 20, 2024 and started receiving his annual salary of $140,979.90 (the salary he was receiving in December 2020) effective August 7, 2024.***

9. A writ of mandate shall issue commanding respondents to take the following actions:

(1) Cease to enforce City of Oxnard Ordinance No. 2977. ***The City is not enforcing Ordinance No. 2977, and the proposed ordinance repeals Ordinance No. 2977.***

(2) Cease to enforce Section 2-44(C) of City of Oxnard Ordinance No. 2643. ***The City is not enforcing Oxnard City Code Section 2-44(C), and the proposed ordinance repeals this subsection.***

(3) Cease to enforce City of Oxnard Resolution No. 15,324. ***The City is not enforcing Resolution No. 15,324, and the proposed ordinance repeals Resolution No. 15,324.***

(4) Cease to enforce City of Oxnard Resolution No. 15,325. ***The City is not enforcing Resolution No. 15,325, and the proposed ordinance repeals Resolution No. 15,325.***

(5) Restore the city treasurer the following statutory duties:

A. Receive and safely keep all money the treasurer receives. (Gov. Code § 41001.) ***The City Treasurer would still have this statutory duty but – consistent with state law – the proposed ordinance would transfer the collector duties and associated functions to the Chief of Police.***

B. Deposit and secure public funds, and handle trust funds in his possession. Gov. Code § 41002, subd. (a).) ***The City Treasurer would still have this statutory duty but – consistent with state law – the proposed ordinance would transfer the collector duties and associated functions to the Chief of Police.***

C. Pay out money on warrants signed by legally designated persons. (Gov. Code § 41003.) The City may in its discretion establish its own procedure for the payment of warrants to the extent allowed by law. (Gov. Code § 53910.) ***With the adoption of the proposed ordinance and the City Council's prior adoption of Resolution No. 15,784 on June 4, 2024, the City has established its own procedure for the payment of warrants consistent with state law.***

D. Submit to the city clerk at least once each month a written report and accounting of all receipts, disbursements, and fund balance; and file a copy of each report with the City Council. (Gov. Code § 41004.)

- *To ensure that a written monthly report and accounting of all receipts, disbursements, and fund balance is provided to the City Clerk and City Council in full compliance with a judgment in a separate lawsuit filed by Moving Oxnard Forward,* ***the City has instituted the transmittal of the written monthly reports to the City Council and the City Clerk.***
- ***Such reports are available online*** *at https://www.oxnard.gov/finance/financial-reporting under the heading "Monthly Financial Reports (Unaudited)." The City's financial information is searchable and downloadable using the Online Interactive Financial Reporting Tool available at https://www.oxnard.org/finances.*
- *The City has had disagreements with Molina regarding the formatting and information provided in the monthly reports, but* ***the format the City is using was found acceptable by the court in the*** **Moving Oxnard Forward** ***litigation.***

E. Duties relative to the collection of city taxes and license fees as prescribed by ordinance. (Gov. Code § 41005.) The City may in its discretion transfer those duties as authorized by law. ***With the transfer of the collector duties to the Chief of Police pursuant to the proposed ordinance, the City Treasurer would not have any "[d]uties relative to the collection of city taxes and license fees as prescribed by ordinance."***

Alternative Option: Although against staff's recommendation, based upon the appellate court's August 7, 2024 decision and subsequent January 29, 2025 judgment, the Council has the ability to simply return all pre-2020 duties to the elected City Treasurer and *not* transfer the collector duties to the Chief of Police. If that is the direction of the City Council, staff will return with an implementing ordinance and resolution; however, such action would likely trigger substantial issues, as were outlined in the 83-page report entitled "Confidential Investigative Report Regarding Allegations Against Philip Molina, the City Treasurer, Prepared for the City of Oxnard" dated February 10, 2020.

STRATEGIC PRIORITIES

This agenda item supports the Organizational Effectiveness strategy. The purpose of the Organizational Effectiveness strategy is to reinforce, stabilize, improve, and strengthen the organizational foundation of the City in order to build a

modern, high-functioning City government that effectively and efficiently supports the operating departments in providing high-quality services and programs for our residents and businesses.

FINANCIAL IMPACT

There is no financial impact.

COMMITTEE OUTCOME

This item did not originate in Committee.

Prepared by: Kenneth Rozell, Chief Assistant City Attorney, Jennie Kelly, Assistant City Attorney

ATTACHMENTS

1. Attachment 1 -- Letter dated December 8, 2016 from City Manager Greg Nyhoff to Phillip Molina re assigned administrative duties
2. Attachment 2 -- Letter of Reprimand dated December 4, 2018 from City Manager Alexander Nguyen to City Treasurer Phillip Molina
3. Attachment 3 -- Investigative Report dated February 10, 2020 (names redacted)
4. Attachment 4 -- Decision of Judge Borrell
5. Attachment 5 -- Appellate Decision
6. Attachment 6 -- Judgment and Writ of Mandate
7. Attachment 7 -- Ordinances and resolutions declared void by judgment and writ of mandate in Molina v. Nguyen
8. Attachment 8 - Proposed Ordinance
9. Presentation

Greg Nyhoff
City Manager

Office of the City Manager

300 West Third Street
Oxnard, California 93030
(805) 385-7430
Fax (805) 385-7595
www.ci.oxnard.ca.us

CITY OF
OXNARD
CALIFORNIA

December 8, 2016

Phillip Molina
[redacted]
Oxnard, CA 93030

Re: Elected Official - Information

Dear Mr. Molina:

Congratulations on your successful election to City Treasurer!

The City Treasurer is an elected position which means that your appointment is for a fixed period of time, four (4) years. Salary Resolution No. 14,883 sets forth the benefit levels for this position and Ordinance No. 2350 sets forth the pay for the statutory duties.

The City Manager has assigned administrative duties to this position which includes the management of the department. A copy of the job description is attached for your reference. Should you choose to accept these administrative duties, appropriate compensation will be provided as defined below. The expectation of this Department Head position is to support the City Manager's Office as well as to be on-site managing the operations and staff, and to adhere to all City policies.

Title: City Treasurer

Start date: December 6, 2016

Salary for Administrative Duties: $123,371.60 annually
Statutory Duties Pay: $5,399.94 annually

Benefits for Administrative Duties:

- Auto allowance of $161.54 bi-weekly
- Paid Holidays: 10
- Annual Leave: 186.16 hours (7.16 hours biweekly)
- Administrative Leave of 80 hours each fiscal year (prorated upon hire)
- Retirement: New members (as defined by PEPRA) 2% @ 62; "Classic" members 2% @ 55. The City pays 4% of the 9% employee required retirement contributions. Note the City of Oxnard does not participate in Social Security
- Health & Dental Insurance: City provides a $242.31 bi-weekly allowance to use towards medical premiums and a $30.83 bi-weekly allowance (after 90 days of employment) to use towards dental premiums
- Long-Term Disability Insurance with coverage of 66 2/3% up to $6,000
- Life Insurance coverage of 1x annual salary + $5,000
- Flexible Spending Account
- Deferred Compensation Plan with a 3% employer contribution

We look forward to the opportunity to work with you in an atmosphere that is successful and mutually challenging and rewarding.

Sincerely,

Greg Nyhoff
City Manager

Attachment

I hereby acknowledge and accept the administrative responsibilities of the City Treasurer as outlined in this letter.

Phillip Molina

12-12-16
Date

cc: Department of Human Resources

OFFICE OF THE CITY MANAGER
300 West Third Street
Oxnard, CA 93030
(805) 385-7447
Fax (805) 385-7595

December 4, 2018

Mr. Phil Molina
Oxnard City Treasurer
214 S. C Street
Oxnard, CA 93030

Re: Letter of Reprimand

Dear Mr. Molina,

This is a letter of reprimand for your repeated improper use of the City of Oxnard e-mail system and release of confidential information to the public.

This letter of reprimand is based on various sections of the City of Oxnard Personnel Rules and Regulations and the California Government Code including:

(1) Oxnard Personnel Rule 18.1.2 - Code of Conduct Policy

1) Employees shall strive to deliver the highest possible level of public service and shall put forth their best image in representing the City. The City strives to foster a positive work environment. Employees who are rude, impolite, or discourteous to other employees and/or any member of the public, engage in inappropriate conduct of any nature, or fail to exercise good judgment in dealing with other employees and/or any member of the public may be subject to disciplinary action.

7) Serious misconduct includes, but is not limited to conduct that an employee should know to be unacceptable without specific notice from the City. Such conduct includes, but is not limited to:

a) Behaviors such as dishonesty, illegal conduct, and conduct that may place the City in violation of any state law, federal law, or court order, or in jeopardy of liability.

c) Insubordination or refusal to take direction from managers and supervisors making appropriate and reasonable requests for action or behavior, including refusal to perform assigned tasks for any reason other than personal safety.

q) Disclosing confidential information to unauthorized parties.

(2) Oxnard Personnel Rule 18.4 - Use of Technology and Devices

18.4.2 Prohibited Uses

Electronic communications should conform to the same standards of propriety and response as any other verbal or written communication at the City. Employees are expected to use common sense and judgment to avoid any communication which is disrespectful, offensive, harassing or illegal.

Examples of inappropriate use of the City's information system resources include, but are not limited to, the following:

4) Communicating confidential City information to unauthorized individuals within or outside of the City.

11) Performing acts that are wasteful of computing resources or that unfairly monopolize resources, including unauthorized mass mailings.

(3) Government Code section 8314 – Use of Public Resources for Unauthorized Purposes

(a) It is unlawful for any elected state or local officer . . . . to use or permit others to use public resources for a campaign activity, or personal or other purposes not authorized by law.

(b) For purposes of this section:

(1) "Personal purpose" means those activities the purpose of which is for personal enjoyment, private gain or advantage, or an outside endeavor not related to … business . . . .

(3) "Public resources" means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time.

BACKGROUND

Prior to October of 2017, you used your City e-mail account to send out a variety of e-mails to every City employee using the all@oxnard.org e-mail list. You also forwarded confidential and privileged e-mails sent by the City Attorney's office to a list of outside recipients without authorization from the City Council.

On October 4, 2017, you were informed by the Oxnard City Attorney, Mr. Stephen Fischer, that your use of the Oxnard e-mail system in this manner violated Oxnard Personnel Rule 18.4.2 as well as the attorney-client privilege.

On November 2, 2017, you were provided a memo from the City Attorney. Mr. Fischer again informed you about the content of Oxnard Personnel Rule 18.4.2, and explained how your use of the City's e-mail system to forward e-mails from a Councilmember could be a violation of the Ralph M. Brown Act (Gov. Code, §54952.2). You were also counseled against indiscriminate use of the all@oxnard.org e-mail list and warned that violation of the City's policy on the use of technology and devices could result in disciplinary action or limitations on your use of City information system resources.

On December 20, 2017, the Oxnard City Manager approved Administrative Policy Number 18.4.6, "Mass Mailings and the "All E-mail List." This policy prohibits acts that are wasteful of computing resources or unfairly monopolize resources, including mass mailings. The policy states, "[m]ass e-mails shall only be sent to recipients reasonably necessary to consider the information being communicated." Further, "[o]nly the City Manager or his or her designee(s) may use the List to send mass e-mails."

CURRENT FACTS

Despite Mr. Fischer's discussion with you on October 4, 2017 and his November 2, 2017 memorandum to you and the implementation of Administrative Policy number 18.4.6, you continue to send out mass e-mails, using your official Oxnard e-mail account, through the use of either copying (cc) or blind copying (bcc) dozens or hundreds of individuals, including the general public, City of Oxnard employees, or outside attorneys. These e-mails include, but are not limited to:

1. On August 29, 2018, you received a confidential communication from Assistant City Attorney Shiri Klima regarding changes in utility rates. Using your City e-mail account, you responded to Ms. Klima and shared her confidential advice with a large list of e-mail recipients, including both City employees and others. In this e-mail you indicated that you would not respect either the privileged nature of the communication or the City's e-mail policies: "I will not hide, cover up, or dilute information to protect the City Attorney's office or the Corporation of the City of Oxnard."

This conduct violated Oxnard personnel rules 18.1.2 and 18.4.2 in that you disclosed confidential information to unauthorized parties. By sharing confidential attorney-client information with dozens of people you may have placed the City, and its residents, at an unfair disadvantage in future litigation.

Further, your statement in this e-mail that "you will not hide, cover up, or dilute information" indicates that you have no intention of adhering to the City's Code of Conduct or the City's policies regarding the use of technology. Indeed, your signature block, which states "[t]his message . . . may contain information that is privileged or confidential which should be made available to the public," is an admission that you are aware of the City's policies regarding confidentiality and have no intention of adhering to them. Your flouting of City policies in this manner is insubordinate and unprofessional.

Being a politician does not put you above the law. Governmental entities, such at the City of Oxnard, are allowed to have rules governing the use and dissemination of privileged and confidential information in the operation of government, and you are not authorized to divulge such information based on your opinion as to the nature or import of such information.

2. On August 31, 2018, you again received a confidential attorney-client communication from the City Attorney regarding your request for legal advice concerning a claim for money made by Mr. Luis Tapia. Using your City e-mail account, you responded to Mr. Fischer and attached Mr. Fischer's confidential communication as well as the confidential legal advice provided to you by Deputy City Attorney, Jason Zaragoza. You copied your response to a large number of e-mail recipients, both within and outside of the City, and shared confidential legal communications with everyone on whom you copied this e-mail. In your e-mail, you stated to Mr. Fischer that, "[y]our demand to provide legal direction and legal advice, but your unwillingness to have that legal advice see the light of day, does not make me comfortable of the foundation for those legal decisions." This statement evidences that you have a fundamental misunderstanding of the role the City Attorney plays in guiding and protecting the City and its residents from potential legal liabilities.

Again, this correspondence violated Oxnard personnel rules 18.1.2 and 18.4.2 in that you communicated confidential City information to unauthorized individuals placing the City in jeopardy of legal liability, and sent out an unauthorized mass mailing. Additionally, this e-mail, which was distributed to numerous City employees at their City e-mail address, was wasteful of the City's computing resources in that it necessitated that employees use their City time to review the e-mail to determine whether it pertains to their City job function.[1]

3. On September 27, 2018, you sent an e-mail to an individual named Michael Gleason who made a Public Records Act request to the City for records pertaining to the Oxnard Historic Farm Park. The City informed Mr. Gleason that it did not possess any responsive documents. You subsequently wrote to Mr. Gleason using your City e-mail account and informed him, "[t]here has been a difference between what the Council directs and signs off to, and what the staff enforces." You also wrote that you believed that these actions were "intentional for the elected politicians, otherwise the Mayor and Council would support me more . . . instead of fighting me every step of the way." This e-mail was blind copied to a large number of e-mail recipients including City employees.

This e-mail, which challenges the City and its elected officials using your City e-mail account and City time, is once again a violation of Rules 18.1.2 and 18.4.2 in that it lacks good judgment, is unprofessional, serves no official purpose, is insubordinate, is wasteful of computing resources and is an unauthorized mass mailing.

4. Between November 5, 2018 and November 20, 2018, you sent a series of e-mails using your City e-mail account, questioning the fact that you were asked to make wire payments to the California Public Employee Retirement System (CalPERS) on behalf of employees who

[1] In fact, all of your unauthorized mass e-mails are wasteful of City resources for the reasons stated in this paragraph.

previously worked for the City as limited benefit employees or as City Corps employees. You incorrectly stated that the City Council had to make a specific budget appropriation for this payment prior to you wiring the money to CalPERS. In an e-mail dated November 19, 2018, Interim Chief Financial Officer, Dave Millican, informed you that the payment could be made out of the City General Fund by the City Manager without a specific appropriation by the City Council. He also notified you that the City Treasurer did not have authority to approve or reject duly authorized requests for checks or warrants. Mr. Fischer responded as well and provided you the appropriate City Council Resolutions authorizing the City Manager to adjust appropriations so that the payment to CalPERS could be made. He also informed you that failure to make the payment could potentially subject the City to legal action by CalPERS.

On November 20, 2018, you again used your City e-mail account to send out an e-mail blast to dozens of recipients. You address the e-mail to "We the People" indicating that it had no official purpose at all. Despite the fact that both the Interim Chief Financial Officer and the City Attorney provided you ample authority that allowed these payments to be made in present time without a City Council appropriation, you continued to incorrectly insist that the City Council is required to publicly make a specific, present appropriation to pay CalPERS. You then opined to your audience, "Does this also sound as wrong to you as it does to me?" and compared the authority of the City Manager to make these payments to a non-specific situation that occurred in Dixon, Illinois where one individual allegedly plead guilty to embezzlement of funds, implying that the same would occur in Oxnard if your directives were not followed.

You also state, "When I ran for this office I supported making changes to maximize transparency, so I refuse now to participate in this clandestine attempt to keep "We the People" from knowing the facts and the reasons behind the problem we now face." This is a clear misstatement of fact. Your e-mails with both the City Attorney and the Interim Chief Financial Officer talked only of the payment of money to CalPERS. There were no discussions about keeping the citizenry of Oxnard in the dark about this issue. This e-mail utilizes campaign rhetoric and constitutes an improper use of City resources in violation of Government Code section 8314.

Furthermore, you blatantly manipulate your readers by omitting some facts, using other partial facts out of context, and drawing conclusions before you, or the City, have all the information needed to make proper decisions. I had provided you an email on November 06, 2018 stating that staff was still gathering the facts for me so that I can make an informed decision. Hence you were informed that the City did not have all the pertinent facts as yet.

In sum, these e-mails sent by you from your City e-mail account between November 5 and November 20, 2018, in which you either copied or blind copied a large list of e-mail recipients, continue to violate Oxnard Personnel Rules 18.1.2 and 18.4.2 and are inappropriate mass e-mails. These e-mails also appear to attempt to convey, in the face of all evidence, that you are the only person within the City of Oxnard who is guarding the public coffers, and imply that you alone have the best interests of Oxnard in mind. Finally, these e-mails reflect a lack of professionalism and good judgment on your part given that you use your official position and City resources to publicize mostly your opinions.

CONCLUSION

Unfortunately, the above list is only a small sampling of the many occasions on which you have used your official City e-mail account to improperly disclose confidential and other City communications to the public and others in violation of the City of Oxnard Code of Conduct and the City of Oxnard policies regarding the use of technology and other devices. Your continual use of the City's e-mail system to copy dozens of individuals serves no official purpose and appears designed to undermine the City and its officials, misleads the public and creates a negative perception of the City organization.

You are ordered to immediately do the following:

1. Cease using your City e-mail account to divulge confidential City information with the public by either copying or blind copying individuals who are not entitled to this confidential information.

2. Remove your signature block footer from your official City e-mails in which you admit to releasing confidential information and express your personal disagreement with the City's confidentiality policies.

3. Cease using your City e-mail account to send out mass mailings.

If you continue to violate the City's Code of Conduct and Use of Technology policies, you may face further disciplinary action up to and including removal of your e-mail account, and the termination of all administrative duties while retaining your elected duties.

Finally, if you believe, in any instance, that there is corrupt, clandestine activity occurring at City Hall, please go directly to the City's Whistle Blower Program, the Chief of Police, the District Attorney, or the California Attorney General immediately. When you want to send campaign rhetoric to your supporters, do so on your own time, using your personal or campaign email and resources, where you can say what you wish within the limitations of the law.

Sincerely,

Alexander Nguyen
City Manager
City of Oxnard

CC: Human Resources Director

CONFIDENTIAL INVESTIGATIVE REPORT REGARDING ALLEGATIONS AGAINST PHILLIP MOLINA, THE CITY TREASURER, PREPARED FOR THE CITY OF OXNARD

Prepared by: Jorge J. Luna

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Dated: February 10, 2020

Attorney Work Product Privilege
Attorney Client Privileged Communication

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I. Introduction

On August 27, 2019, Atkinson, Andelson, Loya, Ruud & Romo, by and through Jorge J. Luna ("Investigator") began an independent investigation for the City of Oxnard ("City"). The investigation stemmed from several complaints made by various individuals and departments against Phillip Molina, the City Treasurer. At the investigation's inception, the Investigator met with several individuals that the City selected in order to obtain information regarding the nature of the allegations against Mr. Molina. On August 27 through 29, 2019, the Investigator met with the Chief Financial Officer ("CFO"); the Assistant City Manager ("Asst. City Manager"); the Deputy City Manager ("Deputy CM"); the Assistant Chief Financial Officer ("Asst. CFO"); the Assistant Chief of Police #1 ("Asst. COP #1); the Assistant Chief of Police #2 ("Asst. COP #2); the Public Works Director ("PW Director"); and City Manager's Office Employee #1 ("CMO Employee #1"), to discuss their respective concerns, as well as those of their departments.

After these interviews were completed, the Investigator met with the Human Resources Director ("HR Director"), and the Assistant City Attorney ("Asst. City Attorney"), to discuss the investigation's scope. At that time, the HR Director and the Asst. City Attorney instructed the Investigator to limit the investigation to the allegations raised by the Finance Department (i.e., the CFO and the Asst. CFO), the Public Works Department (i.e., the PW Director), and CMO Employee #1 related to the Dallas Cowboys' Training Camp that occurred early in the Summer 2019.

In accordance with this scope of work, the Investigator began to interview witnesses that he selected related to the allegations. On September 12, 2019, the Investigator interviewed Treasurer's Office Employee #4 ("TOE #4"). During the course of TOE #4's interview, she raised concerns regarding comments that Mr. Molina allegedly made in the workplace that TOE #4 found objectionable and potentially harassing. The Investigator subsequently met with the HR Director and the Asst. City Attorney to advise them of TOE #4's allegations concerning inappropriate comments in the workplace. At the conclusion of that meeting, the HR Director and the Asst. City Attorney instructed the Investigator to add these allegations to the scope of this investigation.

After the investigation began, there were concerns that Mr. Molina was interfering with the investigation or otherwise violating directives given to him as part of his Notification of Investigation. The HR Director and the Asst. City Attorney approved the Investigator's request to add these allegations to the scope of this investigation.

This Confidential Investigative Report ("Report") summarizes relevant information and provides factual findings regarding the various allegations. The Report addresses the allegations in reverse order by beginning with the allegations concerning Mr. Molina's interference with the investigation and violation of directives contained in his Notification of Investigation. The Report then addresses TOE #4's allegations concerning inappropriate comments in the workplace. Finally, the Report addresses CMO Employee #1's claims concerning the Dallas Cowboys' Training Camp; Finance Department' complaints; and the Public Works Department's complaints, respectively.

II. Summary of Findings

This section summarizes the overarching factual findings for the reader's convenience. The remainder of the Report details the information and analyses supporting each finding, as well as the underlying factual findings that led to the conclusion.

After a thorough review of the information, including witness interviews and documents, the Investigator makes the following overarching findings using the preponderance of the evidence standard of proof:

- By a preponderance of the evidence, the Investigator finds that Mr. Molina interfered with the investigation by communicating with the Assistant Chief Financial Officer after being directed not to do so, by meeting with the members of his department to discuss this investigation after being directed not to do so, and by circulating an email regarding this and another investigation into his alleged conduct.

- By a preponderance of the evidence, the Investigator finds that Mr. Molina made inappropriate comments concerning female employees' appearance/attire, stereotypical female roles, and sexual innuendo in the workplace that violated the City's Sexual Harassment policy contained in its Personnel Rules and Regulations.

- By a preponderance of the evidence, the Investigator finds that Mr. Molina did accuse and improperly investigate City Manager's Office Employee #1 for theft in connection with a perceived shortfall in parking lot money related to the Dallas Cowboys' Training Camp held in the Summer of 2019, and that Mr. Molina's conduct violated the City's Personnel Rules and Regulations and fell outside his duties as outlined by the City Attorney's Office.

- By a preponderance of the evidence, the Investigator finds that Mr. Molina engaged in "keyboard warfare" by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Public Works Department's expense, which violated the City's Personnel Rules and Regulations.

- By a preponderance of the evidence, the Investigator finds that Mr. Molina did not exceed the scope of his position as City Treasurer by engaging in a review of the accounts payable register of checks and holding those checks, including checks requested by the Public Works Department, that he determined lacked sufficient funding or supporting documentation.

- By a preponderance of the evidence, the Investigator finds that Mr. Molina engaged in "keyboard warfare" by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Finance Department's expense, which violated the City's Personnel Rules and Regulations.

- By a preponderance of the evidence, the Investigator finds that Mr. Molina did not exceed the scope of his position as City Treasurer by engaging in a review of the accounts payable register of checks and holding those checks, including checks requested by the Finance Department, that he determined lacked sufficient funding or supporting documentation.

- By a preponderance of the evidence, the Investigator finds that Mr. Molina exceeded the scope of his position as City Treasurer by weighing in on procurements.

- By a preponderance of the evidence, the Investigator finds that Mr. Molina exceeded the scope of his position as City Treasurer by injecting himself into general accounting issues that are the Finance Department's exclusive responsibility.

III. Investigative Methodology

A. Scope of the Investigation

The following complaints constitute the scope of this investigation:

1. Interference with the Investigation

   a. Did Mr. Molina interfere with this investigation by

      (1) communicating with the Assistant Chief Financial Officer after being directed not to do so,

      (2) by meeting with the members of his department to discuss this investigation after being directed not to do so, or

      (3) by circulating an email discussing this and another investigation into his alleged conduct?

2. Treasurer's Office Employee #4's Complaint

   a. Did Mr. Molina make inappropriate[1] comments in the workplace that employees found objectionable and harassing?

3. City Manager's Office Employee #1's Complaint

   a. Did Mr. Molina act improperly[2] when he investigated a perceived shortfall in parking lot money related to the Dallas Cowboys' Training Camp held in the Summer 2019?

[1] For purposes of this Report, "inappropriate" means that the comments at issue violated the City's Personnel Rules and Regulations.

4. Public Works Department Complaints

a. Did Mr. Molina engage in "keyboard warfare"[3] by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Public Works Department's expense? If so, did this conduct violate the City's Personnel Rules and Regulations?

b. Did Mr. Molina exceed the scope of his position as City Treasurer by engaging in a review of the accounts payable register of checks and holding those checks, including checks requested by the Public Works Department, that he determined lacked sufficient funding or supporting documentation?

5. Finance Department Complaints

a. Did Mr. Molina engage in "keyboard warfare" by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Finance Department's expense? If so, did this conduct violate the City's Personnel Rules and Regulations?

b. Did Mr. Molina exceed the scope of his position as City Treasurer by engaging in a review of the accounts payable register of checks and holding those checks that he determined lack sufficient funding or supporting documentation?

c. Did Mr. Molina exceed the scope of his position as City Treasurer by weighing in on procurements?

d. Did Mr. Molina exceed the scope of his position as City Treasurer by injecting himself into general accounting issues that are the Finance Department's exclusive responsibility?

B. Evidentiary Standard

The Investigator reviewed, compared and analyzed information under a preponderance of the evidence standard to determine whether the allegations were with or without merit.

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[2] For purposes of this Report, "improperly" means that the conduct at issue violated the City's Personnel Rules and Regulations or exceeded the City Treasurer's duties as outlined in Exhibit C. The Investigator is not making a determination regarding the accuracy of Exhibit C; instead, he is accepting that the City Treasurer's duties are as outlined in that memorandum.

[3] This phrase was used by Asst. COP #1 during his interview to describe Mr. Molina's use of emails. He defined that concept as follows: "Historically, he has demonstrated that he will have a one-on-one conversation with someone, and following their encounter, will send [an] email to a wide distribution of "bcc'ed" persons, recapping their contact on his terms and from his side of the story. These emails are typically cast with a negative slant toward others, and are often self-aggrandizing. . . . His emails re known for mischaracterizing matters, accusing staff, questioning integrity and character of staff, or grandstanding. His emails are often patronizing and condescending." That is how the phrase is being used in this Report.

"Preponderance of the evidence," for purposes of this Report, means that the evidence on one side outweighs, or is more than, the evidence on the other side. This is a qualitative, not quantitative, standard of proof.

In this Report, the Investigator makes factual findings only. The Investigator used a legal analysis in reaching the factual findings in this Report.[4] The conclusions in this Report are drawn from the totality of the information and a thorough analysis of all the facts, and where necessary, credibility determinations are made.[5]

The Investigator's analysis of a witness' credibility, if necessary, is based on a number of tangible and intangible factors, and consideration was given to direct and circumstantial evidence. Factors that the Investigator considered in determining credibility include, but are not necessarily limited to: the extent of a person's ability to perceive, to recollect, or to communicate accurately; the extent of a person's opportunity to perceive any matter; the existence or nonexistence of a bias, interest, or other motive; consistent or inconsistent statements; the existence or nonexistence and corroboration of any fact provided by a person; any admission; and demeanor. See EEOC Enforcement Guidance: Vicarious Employer Responsibility for Unlawful Harassment, No. 915.20, p. 10 (June 18, 1999); and Fair Employment and Housing Workplace Harassment Guide for California Employers (May 2017).

In this particular case, to the extent that a credibility assessment was required, that analysis is contained in the section addressing the particular allegation at issue.

C. Documents Reviewed

The Investigator reviewed the following relevant documents as part of this investigation[6]:

Exhibit	Description
A	Notification of Investigation dated September 10, 2019 from the City Manager, to Phillip Molina, City Treasurer
B	October 16, 2019 Memo from the City Manager, to Phillip Molina with the identified subject "Temporary Suspension of Administrative Duties of City Treasurer"
C	January 26, 2017 Memo from then-Assistant City Attorney, to then-Assistant City Manager with the identified subject "Duties of City Treasurer," including the referenced attachments

[4] Although the Investigator used a legal analysis in reaching the factual findings in this Report, he did not reach legal or policy findings. Instead, the factual findings are intended to facilitate the rendering of legal advice by the employer's counsel.

[5] The Investigator gave appropriate weight to information that might be considered hearsay in legal proceedings.

[6] The Investigator received documents in addition to those listed in this Report, but the Investigator only relied on and used those identified in this Report for purposes of his analysis and findings.

D	June 28, 2017 letter from Liebert, Cassidy Whitmore to then-Chief Financial Officer, the Human Resources Director, and the City Attorney regarding "Analysis regarding the City of Oxnard's Accounts Payable Finance Procedure"
E	City of Oxnard Personnel Rules and Regulations, Effective July 18, 2017
F	Packet of emails provided by the Chief Financial Officer, to demonstrate Phillip Molina's practice of blind copying private citizens on internal email communications with the Finance Department and the Finance Department's substantive responses to Mr. Molina's accusations and inquiries
G	Series of emails provided by the Assistant Chief Financial Officer, regarding a $5.6 million draw down from a bond that resulted in Phillip Molina making accusations of impropriety by the Finance Department
H	Email string dated June 1, 2018, provided by Assistant Chief of Police #2, to demonstrate Phillip Molina's practice of blind copying individuals on sensitive communications in order to promote himself at the expense of other City representatives
I	Written Statement and series of emails provided by Assistant Chief of Police #1 regarding the Dallas Cowboys' Training Camp allegations by City Manager's Office Employee #1
J	Series of emails provided by Assistant Chief of Police #1, to demonstrate Phillip Molina's practice of blind copying individuals on internal communications and his sharing of privileged and confidential information with the public
K	Series of emails provided by the Public Works Director, in support of her allegations concerning Phillip Molina
L	April 9, 2010 Confidential Memo from then-Police Commander, to Assistant Chief of Police #1, containing "detailed information about the security procedures used in the Oxnard City Treasurer's Office to safeguard employees and funds"
M	Series of emails provided by the Purchasing Manager, to demonstrate Phillip Molina's involvement in procurements that did not involve his department
N	City Council of the City of Oxnard Resolution No. 15243 establishing "Financial Management Policies"
O	City Council of the City of Oxnard Resolution No. 15105 adopting a "Debt Management Policy and Taking Related Actions"
P	September 6, 2019 email from Phillip Molina to the Human Resources Director, re "Voya"

Q	Series of emails provided by the IT Director/Chief Information Officer, to demonstrate Phillip Molina's sharing confidential information related to the ERP procurement
R	September 30, 2019 email string between Phillip Molina and a Councilmember, re "City Treasurer invested $18,000,000 today"
S	June 4 – 7, 2019 email string between Phillip Molina and the Assistant Public Works Director, showing Mr. Molina's involvement in the new golf course contract
T	September 11, 2019 email from Phillip Molina to the Assistant Public Works Director re "Meeting to Discuss American Golf Corporation"
U	October 2, 2019 email from Phillip Molina to Treasurer's Office Employee #2 re "Why is your elected City Treasurer prevented from using his official city email?"
V	July 30, 2019 email from Phillip Molina to City Manager's Office Employee #1 re "Proper processing of ticket sales at Cowboys Event"
W	String of emails provided by the Public Works Director re "No money remaining"
X	December 20, 2017 Memorandum from then-Assistant City Manager to Department Directors re "Approval of City of Oxnard Administrative Policy No. 18.4.6, Mass Mailings and the 'All' E-mail List"
Y	November 2, 2017 Memorandum from the City Attorney to Phillip Molina re "City Policy and Ralph M. Brown Act re Use of City Email System"
Z	December 4, 2018 Letter from the City Manager to Phil Molina re "Letter of Reprimand"
AA	String of emails between the Deputy City Manager and Phillip Molina re "Confidential"

In addition to the above-listed documents, transcriptions of each interview conducted by the Investigator are collectively attached as Exhibit BB.

D. Witnesses

The Investigator interviewed the following witnesses in person for this investigation.[7] The name of each witness, his or her position with the City, and the date(s) of each interview are listed below. The witnesses are listed in alphabetical order by each witness' last name.

[7] The Investigator notes that before each interview began, each witness was advised of the following: 1) the interview is being recorded; 2) the Investigator is an attorney, but is not an advocate for any party; 3) the Investigator's role is to gather information and make factual findings regarding the alleged conduct; 4) the witness' role is to respond fully and truthfully to the Investigator's questions; 5) the witness should maintain confidentiality

Title	Date(s) of Interview
Finance Department Employee #1	September 23, 2019
Treasurer's Office Employee #1	October 8, 2019
Assistant City Treasurer/Revenue Accounting Manager	September 13, 2019 and October 8, 2019
Finance Department Employee #2	September 9, 2019
Assistant Chief of Police #1	August 28, 2019
Purchasing Manager	September 9, 2019
IT Director/Chief Information Officer	September 16, 2019
Finance Department Employee #3	September 23, 2019
Treasurer's Office Employee #2	October 9, 2019
Treasurer's Office Employee #3	October 7, 2019
Treasurer's Office Employee #4	September 12, 2019 and October 8, 2019
Treasurer's Office Employee #5	October 9, 2019
Public Works Director	August 28, 2019
Treasurer's Office Employee #6	September 12, 2019 and September 24, 2019
Assistant City Manager	August 27, 2019
Treasurer's Office Employee #7	October 7, 2019
Treasurer's Office Employee #8	September 13, 2019 and October 7, 2019
City Manager's Office Employee #1	August 29, 2019
Cultural and Community Services Director	September 17, 2019

of the questions asked and responses provided; 6) the Investigator will maintain confidentiality, but cannot guarantee absolute confidentiality; 7) the witness should not be subjected to retaliation for participating in the investigation; and 8) the witness must not retaliate against any participant in the investigation. After the Investigator advised the witness of the above information, the Investigator asked whether the witness had any procedural questions.

Deputy City Manager	August 27, 2019
Community Development Employee #1	September 24, 2019
Treasurer's Office Employee #9	September 12, 2019 and September 24, 2019
City Treasurer	November 12, 2019[8]
Treasury Supervisor	September 13, 2019 and October 7, 2019
Treasurer's Office Employee #10	October 9, 2019
City Manager	October 9, 2019
Treasurer's Office Employee #11	October 9, 2019 and October 30, 2019 (telephonic)
Treasurer's Office Employee #12	October 9, 2019
Finance Department Employee #4	September 11, 2019
Chief Financial Officer	August 27, 2019
Treasurer's Office Employee #13	October 9, 2019
Treasurer's Office Employee #14	October 9, 2019
Public Works Employee #1	October 7, 2019
Police Department Commander	September 11, 2019
Assistant Chief of Police #2	August 28, 2019
Treasurer's Office Employee #15	October 9, 2019
Finance Department Employee #5	September 12, 2019
Assistant Chief Financial Officer	August 27, 2019
Treasurer's Office Employee #16	October 8, 2019
Controller/Senior Manager Internal Control	September 9, 2019

[8] The Investigator tried to schedule a second interview session with Mr. Molina, and actually scheduled a second session in December 2019. However, Mr. Molina, by and through his counsel Andrew Covner, advised the City and the Investigator that Mr. Molina would not appear for a second interview session despite the City's directive for him to appear.

Management Accountant/Auditor	September 11, 2019

This Report does not include all information provided by a witness or contained in a document. Instead, this Report assesses the relevant information as it pertains to the specific alleged conduct. For the reader's ease of reference, the Report is divided by allegation, with a summary of pertinent facts for each witness contained therein. Additionally, where appropriate and to expedite efficiency, the Investigator combined witness summaries where the underlying information was substantially similar.

E. Independence

Independence is a critical component in every investigation, including this investigation. The City and its representatives allowed the Investigator complete discretion to conduct the investigation as he determined to be necessary. The Investigator was given complete access to all requested witnesses and documents, with the exception of Mr. Molina's refusal to appear for a second interview session.

IV. Findings and Associated Analysis

In reaching the findings, the Investigator carefully considered the perspectives, observations, and information from all interviewees. In resolving factual disputes, the Investigator used credibility factors including, but not limited to, motivations of parties and witnesses, corroborating or lack of corroborating evidence, plausibility of events, consistent and inconsistent evidence, material omissions, proximity in time, comparator factors, and articulated rationale for actions or decisions.

A. Did Mr. Molina interfere with this investigation by communicating with the Assistant Chief Financial Officer after being directed not to do so, by meeting with the members of his department to discuss this investigation after being directed not to do so, or by circulating an email that included details about this and another investigation into his alleged conduct?

1. Finding

By a preponderance of the evidence, the Investigator finds that Mr. Molina interfered with the investigation in three respects. First, he interfered by communicating with the Asst. CFO after being explicitly directed not to do so in his Notification of Investigation. Second, he interfered by meeting with members of his department to discuss the investigation after being directed not to do so in his Notification of Investigation. Moreover, five members of his staff stated that they found these meetings intimidating and inappropriate. Finally, he interfered by circulating an email discussing this and another investigation into his alleged conduct. Each of these acts would reasonably impact an individual's willingness to openly participate in the investigation and to provide information related to the allegations. As such, each qualifies as an independent act of interference. Moreover, Mr. Molina's interference with the investigation affects his credibility and the weight to be given overall to his statements.

This allegation is substantiated.

2. Communicating with the Assistant Chief Financial Officer After Directed Not to Do So

a. Facts

(1) Documents

(A) Notification of Investigation

On September 10, 2019, the City Manager issued a memorandum to Mr. Molina notifying him of the investigation. (See Exhibit A, Notification of Investigation.) In that Notification of Investigation, the City Manager specifically directed Mr. Molina to have no contact with the Asst. CFO during the pendency of this investigation. (See Exhibit A, Notification of Investigation, page 1.) The City Manager further explained that "[s]hould you need to contact the Asst. CFO you are directed to send those inquiries to the CFO."

(B) Temporary Suspension of Administrative Duties of City Treasurer

On October 16, 2019, the City Manager issued a memorandum to Mr. Molina advising him that his administrative duties as the City Treasurer were temporarily suspended. (See Exhibit B, Temporary Suspension of Administrative Duties of City Treasurer.) In that memorandum, the City Manager specifically advised Mr. Molina as follows:

> Despite the clear directive of the September 10, 2019 notice, you [Phillip Molina] contacted [the Asst. CFO] on at least six different occasions by email either directly or by copying her. (See Exhibit B, Temporary Suspension of Administrative Duties of City Treasurer, page 1.)

(2) Witness Statement

(A) Phillip Molina

During his interview, Mr. Molina confirmed that he was advised not to communicate with either CMO Employee #1 or the Asst. CFO during the investigation. Mr. Molina also admitted that, after having received the instruction not to communicate with the Asst. CFO, he nevertheless did communicate with her.

b. Analysis

The undisputed facts, including Mr. Molina's admissions during his interview, show that Mr. Molina knew that he was not to communicate with the Asst. CFO during the pendency of this investigation and that he nevertheless communicated with her on at least six occasions after receiving that directive. There are two reasonable conclusions that flow from these admitted facts. First, Mr. Molina demonstrated a complete disregard for the directives issued in connection with this investigation. Second, the preponderance of the evidence supports the

conclusion that his conduct would have had a negative impact on the Asst. CFO in terms of her willingness to share information related to this investigation or to otherwise fully participate. Inasmuch as Mr. Molina failed to comply with the simple instruction not to communicate with the Asst. CFO, she could reasonably fear that he would also fail to comply with the directive to refrain from any retaliation. Such conduct would likely have a chilling effect on the Asst. CFO.

3. Meeting With Members of His Department

a. Facts

(1) Document

(A) Notification of Investigation

On September 10, 2019, the City Manager issued a memorandum to Mr. Molina notifying him of the investigation. (See Exhibit A, Notification of Investigation.) In that Notification of Investigation, the City Manager specifically identified the City's expectations regarding Mr. Molina's behavior during the investigation. The Notification of Investigation specifically advised Mr. Molina, in pertinent part, as follows:

> This is a confidential investigation. Aside from your representative, you must not discuss this investigation with any person who does not have a legitimate business need to know this information.
>
> The City of Oxnard takes investigation into misconduct seriously and will not tolerate retaliation, interference or discrimination against any individual who participates in this investigation. As such you are ordered to refrain from any conduct that may be perceived as retaliation. (Exhibit A, Notification of Investigation, page 2, emphasis added.)

(2) Witnesses Statements

During their respective interviews, sixteen individuals from the Treasurer's Office, including Mr. Molina, confirmed that he held meetings with the members of his office to discuss their anticipated interviews in this investigation. Specifically, this fact was confirmed by Treasurer's Office Employee #2 ("TOE #2"), Treasurer's Office Employee #11 ("TOE #11"), Treasurer's Office Employee #8 ("TOE #8"), Assistant City Treasurer/Revenue Accounting Manager ("Asst. City Treasurer"), Treasurer's Office Employee #5 ("TOE #5"), Phillip Molina, Treasurer's Office Employee #7 ("TOE #7"), Treasurer's Office Employee #16 ("TOE #16"), Treasurer's Office Employee #15 ("TOE #15"), Treasurer's Office Employee #3 ("TOE #3"), Treasurer's Office Employee #14 ("TOE #14"), Treasurer's Office Employee #13 ("TOE #13"), Treasurer's Office Employee #10 ("TOE #10"), TOE #4, Treasurer's Office Employee #12 ("TOE #12"), and Treasurer's Office Employee #1 ("TOE #1"). At the time that Treasurer's Office Employee #6 ("TOE #6") and Treasurer's Office Employee #9 ("TOE #9") were interviewed, the Investigator was not aware that these meetings had taken place. Consequently, the Investigator did not ask either TOE #6 or TOE #9 about the meetings. However, other individuals interviewed confirmed that TOE #6 and TOE #9 also attended similar meetings. The Treasury

Supervisor is the only member of the Treasurer's Office who did not attend one of these meetings. She confirmed that she was on vacation at the time of the meetings, but she was made aware that they had taken place upon her return.

Each individual who confirmed attending the meetings, excluding Mr. Molina, gave similar descriptions of what Mr. Molina said. Mr. Molina advised them that he was aware that they had been contacted by Human Resources for an interview in connection with some type of investigation. He informed those present that, if they felt bullied, harassed or intimidated during their respective interview, they could let him know because he had or was planning to retain an attorney that could assist them. He also told them that they should tell the truth.

(A) Phillip Molina

As noted above, Mr. Molina confirmed that, after becoming aware that Human Resources was scheduling meetings with the members of his staff, he held meetings with his staff regarding the investigation. Mr. Molina also confirmed that, although he held separate meetings with smaller groups in order to keep from pulling his entire staff from the floor at the same time, he provided the same substantive information to each group.

After admitting that he discussed the pending interviews associated with this investigation, Mr. Molina explained that his intent was to calm his staff down. Mr. Molina stated:

> The HR Director and one of the City Attorneys came into the department without letting me know they were coming, handed envelopes to people, without telling me that they were gonna do that – as a department head, I would've thought that they might've let me know. They scared people because a few months earlier, the City Manager had fired seven video employees and so people were scared. Are these letters – are termination letters – what's going on?

Mr. Molina admitted that none of the staff came to him indicating that they were scared. Instead, he claimed that he concluded that they were scared "because of the look in their eyes, the look in their face, concern about what's going on."

Mr. Molina confirmed that it was not his intent to intimidate the staff or to interfere with this investigation. As to this latter point, Mr. Molina repeated that "I told them to tell the truth. That's all I said. 'Please tell the truth.'"

Later in the interview, while his attorney questioned him, Mr. Molina also claimed that he also met with his staff because of a concern over scheduling as he did not want all of his customer service representatives to be pulled from the floor at the same time. In this regard, Mr. Molina stated that he was not aware that the Asst. City Treasurer was already preparing a schedule, and he denied hearing the Asst. City Treasurer discussing the schedule with Human Resources. Mr. Molina conceded that the Asst. City Treasurer has a great memory, and he was not otherwise able to explain the difference in their statements concerning his knowledge that she was preparing a schedule.

(B) Asst. City Treasurer

The Asst. City Treasurer confirmed that Mr. Molina became aware that she was scheduling the staff for interviews related to this investigation. She specifically said:

> So while I was on the phone with the [Human Resources Administrative Assistant] trying to figure out the scheduling of the staff, Mr. Molina walked into my office and he saw that I had the schedule in front of me and talking to someone on the phone. So after I completed my conversation with [Human Resources Administrative Assistant] on the phone, Mr. Molina came back to my office and asked me what training are you scheduling the staff for? My response was "this is not for training. HR informed me that they need to interview everyone in the department."

The Asst. City Treasurer, who confirmed that she attended each of these meetings with Mr. Molina, stated that, in each meeting, Mr. Molina said, "I was told that you will all be interviewed by someone in HR or HR department and I just want all of you to know that you should not be scared, you should not be nervous about it, just tell the truth and you should not be afraid of retaliation or being bullied and if you feel that way, I have a lawyer and I'll help you straighten it out."

(C) TOE #2

When asked for her reaction to Mr. Molina holding these meetings with his staff, TOE #2 responded as follows:

> I don't think it should have happened. I think it was unprofessional, and I'm pretty sure that was against the rules of the whole confidentiality agreement, I guess. I don't feel like his lawyer will be there to protect us. I feel like the lawyers are to protect him. That's what I took from that.

When asked if she was intimidated by Mr. Molina calling her into one of these meetings, TOE #2 said:

> A little bit because . . . yeah, a little bit. Because that means he knows I'm coming and, you know, probably hear what I said.

When asked if Mr. Molina's actions gave her concern regarding potential retaliation, TOE #2 commented:

> Maybe not me specifically. But I mean, I think he's going, he's the type to retaliate, yeah. Clearly he looks like it. I get that vibe from his meeting and his email, that that's his form of retaliation.

(D) TOE #3

At the start of her interview, TOE #3 immediately expressed concern regarding retaliation because "I've seen it happen." As a basis for her concern, TOE #3 identified Mr. Molina's meetings with staff and said:

> It was intimidating. It's kind of like, hey, we know. Like, we're going to know whatever you say.

In further describing her reaction, TOE #3 relayed a conversation that she had with TOE #11 concerning the meetings:

> I just remember passing by her [TOE #11] really quick and being like "hey, did you get called in too?" And she's like, "yes." She's like "oh my God, that makes it so much more intimidating, that's so wrong."

(E) TOE #4

When asked about her response to Mr. Molina's staff meetings concerning the investigation, TOE #4 said:

> What I took from the meeting and what he said, honestly, it was more like he wanted us to be sure that we were aware that he had a good lawyer, but I didn't get the impression myself that that lawyer was there to protect us. So that lawyer is his lawyer to protect him. So I think he's a very smart man. I think he said it knowing, or putting that in our mind, kind of, be aware of what you're saying.

As a follow up, the Investigator asked TOE #4 if she felt intimidated, to which she responded:

> I did. I was upset after I left there. I was upset. And I was confused as to why he would call us into that meeting. I personally don't feel like he was calling us to the meeting to protect us. Again, him just saying that he had a really good lawyer, it's for his benefit, not for us.

When asked if she viewed Mr. Molina's reference to having a lawyer as a threat, TOE #4 said:

> I did, I did. And it made me feel or wonder whether I should have some type of representation because he is protecting himself. And just coming in here makes me really nervous.

In summing up this point, TOE #4 confirmed that Mr. Molina's meeting intimidated her. She felt that there was an implied threat to watch what she said. She perceived the reference to the attorney as a warning that Mr. Molina has someone who is looking out for him.

(F) TOE #11

Similar to other witnesses, TOE #11 began her interview expressing concern over potential retaliation. In her case, she indicated that she had previously experienced retaliation from Mr.

Molina and other management personnel within the Treasurer's Office when she complained about other issues.

When asked about Mr. Molina meeting with staff in advance of their interviews, TOE #11 stated that she took it as a threat and an effort to intimidate the staff. In explaining why she interpreted his actions in this way, TOE #11 said:

> Because he mentioned his lawyer. And he was saying that, he mentioned himself. That if we had anything to say about him. . . . He said, if HR asks you anything and tries to force you to say something that you don't want to say about me, then I have a really good lawyer that you can talk to.

(G) TOE #15

After confirming that Mr. Molina had advised individuals that he had an attorney, TOE #15 expressed her belief that Mr. Molina's attorney would not be to help the employees; instead, she understood that the attorney was there for Mr. Molina's benefit.

When asked if the meeting made her nervous, TOE #15 responded:

> A little, just because I, I mean I didn't know what to expect. When he needed to call us up and I already had this letter. It kind of made me feel like maybe something was wrong. I don't know maybe something was going to happen.

b. Analysis

The undisputed facts, including Mr. Molina's admissions during his interview, show that Mr. Molina held meetings with the members of his staff in order to discuss their anticipated interviews in this investigation. Mr. Molina tried to deflect a connection to the investigation by claiming that these meetings were intended to calm the staff down and to ensure that the interviews were scheduled so as not to interfere with the department's operations.

With respect to the first identified basis, Mr. Molina admitted that no one expressed that they were scared after receiving the notice of the interview. Mr. Molina merely assumed that they were scared because of the "look in their eyes." The Investigator finds Mr. Molina's explanation to be unreasonable under the circumstances; therefore, he discredits it.

The second identified basis is equally unreliable. The Asst. City Treasurer stated that Mr. Molina learned of the anticipated interviews because he overheard her scheduling the witnesses with Human Resources. Mr. Molina even asked for a copy of the schedule once it was finalized. Although Mr. Molina nevertheless denied that this event took place, he concedes that the Asst. City Treasurer has a great memory. Given Mr. Molina's description of the Asst. City Treasurer's memory, as well as the fact that she has no identifiable motivation to slant her testimony against Mr. Molina, the Investigator discredited Mr. Molina's denial and found his claim that scheduling was an issue prompting the meetings to be unreliable.

In short, the preponderance of the evidence shows that these meetings were intended for the single purpose of meeting with staff in order to discuss their anticipated interviews in this investigation. Moreover, the preponderance of the evidence shows that there were at least five employees who found Mr. Molina's meetings to be intimidating or otherwise inappropriate. Whether intended or not, Mr. Molina's meetings impacted witnesses in this investigation. Consequently, he interfered with their potential statements and this investigation. Additionally, inasmuch as Mr. Molina failed to comply with the simple instruction not to interfere with this investigation, witnesses could reasonably fear that he would also fail to comply with the directive to refrain from any retaliation. Such conduct would likely have a chilling effect on their willingness to participate and share information.

4. Email Sent to Members of Staff Before Interviews

a. Facts

(1) Documents

(A) October 2, 2019 Email re "Why Is Your Elected City Treasurer Prevented from Using His Official City Email?"

On October 2, 2019, around the same time that he was meeting with staff in advance of their interviews in this investigation, Mr. Molina sent out an email with the identified subject "Why is your elected City Treasurer prevented from using his official city email?" (See Exhibit U[9].) This email included information related to one other investigation involving Mr. Molina that was conducted in 2018 and involved harassment claims by two women. (See Exhibit U, paragraph 1.) The email also included multiple references to this investigation.

> 4. On September 10th, yes the same day I received response to my complaint, the City informed me two other city women filed an harassment complaint (not sexual) against me. These two women I have met and spoke to less than 3 times in the years I have been with the city.
>
> * * *
>
> 6. Because I sent emails, which you have been offered, that included the women who filed the last complaint, my official City email address was terminated. But those same 2 women continue to send me emails, memos and notes.
>
> 7. I am ordered to not communicate with either woman who filed the complaint against me, yet I continue to receive communication from the women.
>
> Now anyone reading this email knows that the City has control on who can send and receive specific emails. The city has stopped my private emails from going to certain city staff. So the clear and simple question is, if the City did not want me

[9] TOE #2 provided a copy of this email to the Investigator during her interview on October 8, 2019.

> to keep the 2 women informed about business they needed to know, the city could have put a rejected tag on each of these two women's email address to reject my city email. Instead the City Manager chose to terminate my official city email. (See Exhibit U.)

(2) Witness Statements

In total, nineteen individuals from the Treasurer's Office, including Mr. Molina, were interviewed. However, eight of those individuals were interviewed before the Investigator became aware of this email. Consequently, those individuals (i.e., Asst. City Treasurer, TOE #3, TOE #6, TOE #7, TOE #8, TOE #9, the Treasury Supervisor, and TOE #16) were not asked about the email. Of the remaining eleven individuals, TOE #5 and TOE #10 could not recall whether they received the email as they frequently ignore emails from Mr. Molina that do not specifically relate to their job duties. With regard to Mr. Molina, the Investigator did not have the chance to question Mr. Molina regarding this particular email because Mr. Molina declined to meet with the Investigator a second time. Finally, of the remaining eight individuals, six (i.e., TOE #1, TOE #2, TOE #4, TOE #11, TOE #13, and TOE #14) confirmed receiving the email. TOE #12 and TOE #15 denied receiving the email.

With respect to the six individuals who confirmed receiving the email, TOE #2, TOE #4 and TOE #11 all indicated that they were bothered by the email.

(A) TOE #2

TOE #2 first raised this email with the Investigator as she expressed some concern regarding its content. Specifically, TOE #2 found the email problematic because of the level of the detail that it contained regarding this investigation. When asked to confirm this concern, TOE #2 said:

> Yes, and the fact that he is sending it out to us, being like, I know, I think of it more as a, here you go, I know exactly what's going on.

In short, TOE #2 confirmed that she was intimidated by the email.

(B) TOE #4

In discussing this email, TOE #4 expressed her concern that Mr. Molina would be able to get information about this investigation as he had apparently done in the past. When elaborating on this concern, TOE #4 said:

> Right. I don't want him to address me about it. I think that makes me uncomfortable. I don't want him to take me to the side. Even initially, after we had our very first interview, he went around, I don't remember if it was that same evening or a couple of days after, and he came directly to me and he says "I'm going to be staying after work a couple of minutes to answer any questions you might have." And I looked at him and I said "what are you talking about?" And he said "you don't know what I'm talking about?" I said "no." And he says, "okay, good then." I can only assume, I don't know for a fact that it had to do

> with him knowing that some of us had already come over to HR and spoke to somebody in HR.

TOE #4 confirmed that she was concerned about the email because it demonstrated that Mr. Molina was able to get information about these investigations.

(C) TOE #11

When asked for her reaction to the email, TOE #11 said:

> It made me a little nervous about coming in and talking to you guys because somehow he found out some information. I didn't know what. I knew there was some type of investigation going on, but I didn't know what it was about. But if he was able to find that out, then it made me nervous that he was going to know that whatever it is that I say here. He was going to find out. And I was somehow going to get in trouble for it.

b. Analysis

The undisputed facts, including the email itself (see Exhibit U), show that Mr. Molina sent an email containing information relating to two separate investigations, including this investigation. It is also undisputed that Mr. Molina sent this email to at least six members of his staff. Finally, it is undisputed that three of those individuals were bothered by the email and indicated that, to varying degrees, it intimidated them.

In short, the preponderance of the evidence shows that three employees found Mr. Molina's email to be intimidating or otherwise inappropriate. Whether intended or not, Mr. Molina's email impacted witnesses in this investigation. Consequently, he interfered with their potential statements and this investigation.

B. Did Mr. Molina make inappropriate comments in the workplace?

1. Finding

By a preponderance of the evidence, the Investigator finds that Mr. Molina made inappropriate comments in the workplace that employees found objectionable and harassing. These comments concerned female employees' appearance/attire, stereotypical female roles, and sexual innuendo. Mr. Molina admitted to making all three types of comments. The Investigator also finds that, by a preponderance of the evidence, Mr. Molina's comments violate the City's Sexual Harassment policy contained in its Personnel Rules and Regulations. (See Exhibit E, Chapter 3, Section 3.3.1 – Sexual Harassment and Section 3.3.2 – Harassment Based on Other Protected Status.)

This allegation is substantiated.

2. Facts

a. Documents

(1) City's Personnel Rules and Regulations

The City's Personnel Rules and Regulations, Chapter 3, Section 3.3.1 – Sexual Harassment reads, in pertinent part, as follows:

> Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other visual, verbal, or physical conduct of a sexual nature when:
>
> * * *
>
> Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
>
> Sexual harassment may include a range of behaviors and may involve individuals of the same or different gender. Examples include but are not limited to:
>
> * * *
>
> Verbal conduct including making derogatory comments, sexually explicit jokes, slurs, sexual innuendo and insults, or comments about an individual's body or dress.
>
> * * *
>
> Sexually harassing conduct need not be motivated by sexual desire and may include nonsexual conduct motivated by the violator's hostility toward the victim's gender or towards the victim's nonconformity to gender stereotypes. (See Exhibit E, Chapter 3, Section 3.3.1 – Sexual Harassment.)

The City's Personnel Rules and Regulations, Chapter 3, Section 3.3.2 – Harassment Based on Other Protected Status reads as follows:

> In addition to sexual harassment, harassment on the basis of any other Protected Status is also prohibited. Such harassment includes physical, verbal, and visual conduct when such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

b. Witnesses Statements

In total, there are nineteen individuals who work in the Treasurer's Office, including Mr. Molina. All nineteen individuals were asked whether Mr. Molina made inappropriate comments in the workplace. Specifically, each individual was asked whether they either heard or had been told

that Mr. Molina made comments regarding female employee's appearance/attire, stereotypical female roles, and sexual innuendo. Of those nineteen individuals, seventeen, including Mr. Molina, confirmed that Mr. Molina made such comments repeatedly.

With respect to comments regarding female employees' appearance or attire, the following individuals confirmed hearing Mr. Molina making such comments: TOE #1, Asst. City Treasurer, TOE #3, TOE #4, TOE #6, TOE #7, TOE #8, Phillip Molina, the Treasury Supervisor, TOE #10, TOE #11, TOE #12, TOE #13, TOE #14 and TOE #16.

As it relates to comments regarding stereotypical female roles, the following individuals confirmed hearing Mr. Molina making such comments: TOE #1, Asst. City Treasurer, TOE #2, TOE #4, Phillip Molina, TOE #11, TOE #12, TOE #13, and TOE #14.

The following individuals confirmed hearing Mr. Molina make comments involving sexual innuendo[10]: Asst. City Treasurer, TOE #2, TOE #4, TOE #6, Phillip Molina, TOE #11, and TOE #13.

The only two individuals who indicated that they never heard Mr. Molina make any inappropriate comments are TOE #9 and TOE #15.

TOE #2, TOE #4, and TOE #11 all confirmed that they were offended by Mr. Molina's comments. TOE #1 and TOE #6 also confirmed that they had heard people express that Mr. Molina's comments offended them.

(1) Phillip Molina

Since Mr. Molina's admissions are the most reliable evidence provided, the following summary relates specifically to his admissions concerning inappropriate comments.

With regard to appearance or attire, Mr. Molina admitted to making such comments and described them as follows:

> Oh, "That's a pretty blouse you're wearing." Um, "Those are pretty shoes you're wearing" or "That's a pretty dress you're wearing."

Along these same lines, Mr. Molina recalled at least one occasion where he compared a female employee to an actress. He said, "I may have. That's – I'm trying to remember. There was some movie in the – one of the ladies, I said 'you remind me of this actress. I don't know her name.' I thought I was giving her a compliment but it turns out I wasn't or whatever, so yeah, I'm – if that was Melissa McCarthy, then yes I did, and I apologize."

With respect to comments concerning stereotypical female roles, Mr. Molina admitted that he has advised female members of his staff to "go home and cook for your husband," "go home and

[10] For purposes of this Report, sexual innuendo encompasses comments that are capable of a sexual interpretation regardless of Mr. Molina's underlying intention.

cook for [your] husband and [your] children," or "go home to cook for [your] boys" on multiple occasions.

As it relates to sexual innuendo, Mr. Molina confirmed that he asked female employees in his department who would give him CPR if he were to have a heart attack.

3. Analysis

The undisputed facts, including Mr. Molina's admissions during his interview, show that Mr. Molina made comments about the female employees' appearance/attire, stereotypical female roles, and sexual innuendo. All three types of comments are expressly identified in the City's sexual harassment policy as examples of harassment. Moreover, the policy does not require that anyone actually voice a formal objection to the comments for a violation to exist. Instead, the comments alone are sufficient if they are creating an intimidating, hostile, or offensive working environment, which was confirmed by TOE #2, TOE #4, TOE #11, TOE #1, and TOE #6.

In short, the preponderance of the evidence shows that Mr. Molina made inappropriate comments about female employees' appearance/attire, stereotypical female roles, and sexual innuendo in the workplace that employees found objectionable and harassing; therefore, those comments violated the City's Sexual Harassment policy contained in its Personnel Rules and Regulations.

C. Did Mr. Molina act improperly when he investigated a perceived shortfall in parking lot money related to the Dallas Cowboys' Training Camp held in the Summer of 2019?

1. Finding

By a preponderance of the evidence, the Investigator finds that Mr. Molina did accuse and improperly investigate CMO Employee #1 for theft in connection with a perceived shortfall in parking lot money related to the Dallas Cowboys' Training Camp held in the Summer of 2019. The Investigator also finds, by a preponderance of the evidence, that Mr. Molina's conduct related to this incident violated the City's Personnel Rules and Regulations. (See Exhibit E, Chapter 3, Section 3.10 – Anti-Bullying Policy.) By a preponderance of the evidence, the Investigator also finds that Mr. Molina's conduct related to this incident fell outside his duties as outlined by the City Attorney's Office. (See Exhibit C.)

This allegation is substantiated.

2. Facts

a. Documents

(1) City's Personnel Rules and Regulations

The City's Personnel Rules and Regulations, Chapter 3, Section 3.10 – Anti-Bullying Policy reads, in pertinent part, as follows:

3.10 ANTI-BULLYING POLICY

> . . . the City also prohibits any form of "intimidating or bullying" in the workplace or elsewhere, such as at offsite events or work places.
>
> 3.10.1 POLICY COVERAGE
>
> . . . Bullying is the use of aggression with the intention of harming another individual. It can include any intentional written, visual, verbal, or physical act, when the act physically harms the individual or damages his or her property; has the effect of interfering with an employee's ability to work; is severe or pervasive; and creates an intimidating or threatening event.
>
> Bullying comes in many shapes and sizes and can take many forms including, but not limited to . . . abusive comments, . . . spreading rumors . . . . Such conduct can also occur via use of electronic or telephonic communications such as the internet, email and chatroom misuse, mobile threats by test messaging or calls, or misuse of cameras and video equipment. (See Exhibit E, Chapter 3, Section 3.10 – Anti-Bullying Policy.)

(2) January 26, 2017 Memorandum from then-Assistant City Attorney to then-Assistant City Manager

Then-Assistant City Attorney's January 26, 2017 memorandum to then-Assistant City Manager sets forth the City Treasurer's duties, both the elected position and the administrative position. (See Exhibit C.) As it pertains to this particular allegation, the memorandum is important because it fails to identify among the City Treasurer's duties investigating the possible theft of public funds or questioning employees about possible theft of public funds.

(3) Asst. COP #1's Written Statement Regarding the Dallas Cowboys' Training Camp Incident

The document constitutes Asst. COP #1's summary of the incident, which he prepared in close proximity to the actual event. The substance of that written statement will be summarized in the Witnesses Statements portion of this Fact section.

(4) Phillip Molina's July 30, 2019 Email to CMO Employee #1 re "Proper processing of ticket sales at Cowboys Event"

The key point contained in Mr. Molina's email is that he confirms that he went to the site of the event with his staff and engaged in some form of review of procedures, which several witnesses described as his improper investigation. Mr. Molina specifically wrote:

> After our review today it was clear that had you and the other police staff been properly instructed there would have been no questions that you would have followed the proper methods for ticket sales and reconciliations performed.

> [CMO Employee #1], as me and my staff observed your performance today, it is clear that you are giving your 200% effort to do everything to make this event successful for the City of Oxnard. (See Exhibits I and V.)

(5) Emails between Phillip Molina and the Deputy CM re Confidential

In this exchange with the Deputy CM, Mr. Molina admits to using the term "theft" in describing the situation at the Dallas Cowboys' Training Camp. (See Exhibit AA.)

b. Witnesses Statements

In order to set the proper context for this allegation, the summaries begin with CMO Employee #1. Thereafter, the summaries are provided in alphabetical order by the witness' last name.

(1) CMO Employee #1

CMO Employee #1 confirmed that this was the first year that she was tasked with overseeing the revenue for the parking lots associated with the Dallas Cowboys' Training Camp. In anticipation of this new assignment, CMO Employee #1 was provided with written information by the previous staff.

Specifically, she recalled being provided with a three-page document containing instructions on the processing of the cash. CMO Employee #1 stated that there were still items that were not provided to her, so she reached out to TOE #4 in the City Treasurer's Office with additional questions. She reached out to TOE #4 because TOE #4 handles deposits for the City Treasurer's Office, and she believed that TOE #4 would be able to provide her with "the bank deposit bags, the deposits, the deposit book." CMO Employee #1 met with TOE #4 who "provided [CMO Employee #1] everything that [she] needed to—needed as far as through the City Treasurer's rules and stuff like that." TOE #4 also confirmed that CMO Employee #1 had all the necessary forms and was not missing anything in that regard.

CMO Employee #1 confirmed that TOE #6 and TOE #9 from the City Treasurer's Office volunteered to help with processing the parking lot money. Both individuals were present on the event's first day, which took place on a weekend, and helped to count the collected money. CMO Employee #1 confirmed that there was some confusion counting the money collected from the parking lot run by the Police Explorers as there were some tickets that appeared to have been sold, but that the police officer who dropped off the money pointed out were not used. As a result, CMO Employee #1 admitted that the cash collected could not be balanced with the tickets that appeared sold.

The following Monday, CMO Employee #1 was contacted by the Treasury Supervisor, who asked CMO Employee #1 to come over to the Treasurer's Office because Mr. Molina "had some questions regarding cash that was missing." After indicating that she would try to make it over to meet with Mr. Molina, CMO Employee #1 said that she had a conversation with the Cultural and Community Services Director ("CCS Director"), which she described as follows:

> He stopped by my office and he said, "I just ran into Phil Molina and he is saying something about that there's a mishandling of funds, you know like there's money missing" and I shared with him that [the Treasury Supervisor] had called and that Mr. Molina wanted to meet with me. And I told [the CCS Director], I am not going to meet with him. And [the CCS Director] told me "You have to meet with him, otherwise, he's going to make a big thing out of nothing, you know."

CMO Employee #1 went to meet with Mr. Molina, and was surprised when Mr. Molina brought the Asst. City Treasurer, TOE #8, and the Treasury Supervisor into the meeting. CMO Employee #1 indicated that, what started as a telephone request for a meeting because Mr. Molina had a few questions, became a forty five minute "interrogation." She said:

> . . . they just kept like cross-examining me, you know, kind of like just, you know, like questioning everything and it just seemed like they wanted to hear a different answer because like Mr. Molina would ask me a question and I would answer it and then [the Asst. City Treasurer] would ask me another question and then when I was trying to explain to them, it was like, look you guys have no clue how this is being handled. . . . I said I met with your staff and we went over everything and it just seemed like he totally ignored that part; he was just trying to find something wrong with the not balancing. . . So I told them, I said I have to leave. They kept asking me more questions. So it started kind of like a repetition of the same questions, over and over again.

CMO Employee #1 also added "so during the cross-examining, I was—you know it was so—I mean I was—I walked out of there feeling like he was accusing me." She clarified that "Mr. Molina said that he was—he had been informed by his staff that there was mishandling of funds." CMO Employee #1 felt that Mr. Molina was acting as judge, and that she was being blamed or accused of stealing money. Later that night, CMO Employee #1 said that she saw an email that Mr. Molina sent to the City Council that "basically [told] council that there was mishandling of funds, that theft was going on."

The next day, while at the Dallas Cowboys' Training Camp location, CMO Employee #1 received a call from the City Manager. She said:

> So anyways, that morning I want to say it was like around 10 in the morning—not 100% on the time—but I received a phone call from the City Manager and the City Manager mentioned that he had me on speaker phone and he had [a Project Manager] who works on our floor and the Deputy City Manager, and he said, "[CMO Employee #1] what is going on? I have Phil Molina that barged into my office." Now this is what the City Manager is telling me over the phone. He said, "I have Phil Molina, who barged in here and he said that there is mishandling of funds you know that"—I don't know if he said there's like a red flag"—"you know I have to go out there to investigate because you know there's money missing over"—he mentioned an amount of money that was missing and I assured the City Manager that nothing of that was happening.

Shortly after her conversation with the City Manager, CMO Employee #1 said that Mr. Molina and the Treasury Supervisor arrived at the site, and Mr. Molina "just looked at me and he had this like smirk on his face and he just said, 'Good morning Martha, how are you doing?'" CMO Employee #1 described this initial interaction as follows:

> Tuesday when that happened I was not happy with Mr. Molina and I told him, I said "I don't want to talk to you. I don't appreciate you sending that e-mail." He acted like he didn't know that I was talking about. He said, "I don't know what you're talking about, and I don't know what the City Manager told you." He changed the story around that that's now what happened, that he didn't go to the City Manager and that he never blamed anybody. And I told him, I said, "Look, if you're asking me to believe you or the City Manager, I am going to believe the City Manager." Because I had already seen an email that went out Monday night, and then here's Tuesday morning, and he's acting like I have no idea what's going on. So anyway, I told him "I don't want to talk to you because I feel like you're accusing me."

CMO Employee #1 then turned to the Treasury Supervisor and told her that "Your boss went into [the City Manager's Office] accusing me of theft, because when he's accusing staff, he's also accusing me. She said that, in response, the Treasury Supervisor asked Mr. Molina "What did you do Phil?"

CMO Employee #1 stated that Mr. Molina continued to question her and stood extremely close to her. She described it as follows:

> . . . like he wanted to intimidate me, you know, like "I'm here, I am going to investigate what you're doing, how the money is handling and then come up with my own conclusion."

CMO Employee #1 confirmed that she also received Mr. Molina's email apology. She said:

> So I think that's pretty much it. I know there was another e-mail from Mr. Molina in where he was apologizing to me, and to be honest with you, I didn't accept his apology because he—that e-mail was—it didn't sound sincere. It was basically, he knew how I felt and he knew that I was aware of his accusations and he was trying to now cover himself by, "that's not exactly what I said."

In terms of the impact that Mr. Molina's accusations and actions had on her, CMO Employee #1 said:

> I don't know what he told staff, but there was some employees that heard his portion, his side of the story, so as far as I know, I don't know how many people received that e-mail and that was my biggest disappointment with him, that I don't know how many people he shared that e-mail. People that shouldn't have known, you know, that should have been—I mean if he had any issues, he should have been talking to the City Manager and to the HR Director or even the police department. But I have no way of knowing how many people received that email.

(2) Asst. City Treasurer

The Asst. City Treasurer confirmed that, the Monday following the opening of the Dallas Cowboys' Training Camp, Mr. Molina called her into a meeting with TOE #8, the Treasury Supervisor, TOE #6 and TOE #9. She recalled that TOE #6 and TOE #9 described the cash handling as disorganized and "not up to the standard" used in the Treasurer's Office. She said that TOE #6 and TOE #9 advised them that there was $1,000 missing. She said that Mr. Molina indicated that this was something that they needed to look into. However, she indicated that no one implied that theft had occurred.

When asked why it was not strange that Mr. Molina chose to look into this issue himself, the Asst. City Treasurer responded, "when he hears of anything in the City that is amiss or does not seem to be properly handled, he likes to take it upon himself to investigate." The Asst. City Treasurer confirmed that she has never seen anything in writing that authorizes the City Treasurer or his office to conduct investigations.

The Asst. City Treasurer confirmed participating in a forty-five minute meeting in Mr. Molina's office involving CMO Employee #1, Mr. Molina, TOE #8, and the Treasury Supervisor where they discussed the Dallas Cowboys' Training Camp. She described the meeting as follows:

> Mr. Molina asked her about the process that she does, and she explained to us that this is her first time to become in charge of that whole project and she's learning. So Mr. Molina said that we would like to make suggestions to you and she said, if you can help me make it a better system, yeah, let me know.

The Asst. City Treasurer stated that CMO Employee #1 did not appear upset during the course of the meeting. In fact, she recalled CMO Employee #1 asking if someone from the Treasurer's Office could help her going forward.

Although she could not recall what it said, the Asst. City Treasurer did recall Mr. Molina sending out an email the same day as this meeting wherein he "mentioned about missing money that belongs to the City." The Asst. City Treasurer indicated that she found it inappropriate for Mr. Molina to have made this issue public by copying people outside of his office.

(3) Asst. COP #1

As noted above, Asst. COP #1 provided a written statement regarding the Dallas Cowboys' Training Camp incident, which is located at the start of Exhibit I. It is summarized as follows:

Asst. COP #1 indicated that he was contacted on Tuesday, July 30, 2019, by the City Manager's Office and was told by the City Manager that Mr. Molina had come to the office claiming that theft had occurred at the Dallas Cowboys' Training Camp and that Mr. Molina was on his way to the site to investigate the matter. The City Manager asked if "someone of rank" could look into the situation. Asst. COP #1 indicated that he would handle the situation.

Asst. COP #1 asked the Police Department Commander ("PD Commander") to accompany him to the event site. He indicated that he did this because he "wanted to have a witness present for

any contact with the Treasurer." He explained that Mr. Molina "has a reputation for being intimidating to staff members." He further wrote:

> Historically, he has demonstrated that he will have a one-on-one conversation with someone, and following their encounter, will send [an] email to a wide distribution of "bcc'ed" persons, recapping their contact on his terms and from his side of the story. These emails are typically cast with a negative slant toward others, and are often self-aggrandizing. . . . His emails re known for mischaracterizing matters, accusing staff, questioning integrity and character of staff, or grandstanding. His emails are often patronizing and condescending.

Asst. COP #1 understood that CMO Employee #1 was the designated cash handler for the parking lot money at the Dallas Cowboys' Training Camp.

Asst. COP #1 indicated that he considered Mr. Molina's investigation of alleged theft to be inappropriate because it would have involved the Explorers (who are overseen by the police department), Explorer Advisors (police personnel), and CMO Employee #1 since no one else had access to the money. He further wrote:

> What is also important to note is that given that the Treasurer made an allegation that a crime had occurred, it was both extremely unusual and inappropriate that he would take it upon himself and rush to the site to investigate. The proper thing would have been for him to contact Police Department management, so law enforcement could handle this.

When he and the PD Commander arrived at the location, he observed the Treasury Supervisor and Mr. Molina speaking with CMO Employee #1. As he approached the group, he saw that CMO Employee #1 looked "quite upset" and was wiping her eyes as if she had been crying. He wrote: "The Treasurer, who is approximately 6'4" in height, had his back facing me; he was looking downward towards [CMO Employee #1], had his hands on his hips and appeared to be directing his speech at [CMO Employee #1]." Based on his observations, Asst. COP #1 concluded that Mr. Molina "was questioning/interviewing/interrogating an employee that would have potentially had culpability had a theft actually been substantiated." Asst. COP #1 wrote "the optics of what was occurring was highly inappropriate" because the matter should have been turned over to the Police Department; the Treasurer had no authority to conduct a criminal investigation; the Treasurer's actions would have negatively impacted law enforcement's ability to pursue the case if a crime had occurred; and the sight of CMO Employee #1 crying due to Mr. Molina's questioning.

When Asst. COP #1 joined the group, he indicated that Mr. Molina expressly used the term theft and said that no theft had occurred. Asst. COP #1 wrote that he scolded Mr. Molina for prematurely reporting theft. He indicated that Mr. Molina did not deny claiming theft; instead, Mr. Molina apologized because he did not have time to fully explain the situation to the City Manager.

Asst. COP #1 then spoke to CMO Employee #1 outside of Mr. Molina's presence. He summarized that conversation as follows:

> [CMO Employee #1] told me that the Treasurer was asking her questions when we walked up, and that she was being made to feel like she had done something wrong. She elaborated and added that on the previous day (Monday, July 29, 2019) the Treasurer summoned her to his office without providing a reason. She said that he kept her in his office for over an hour, and was questioning her in an accusatory manner. She said she felt as though she was being "cross examined" by him. As she was beginning to elaborate, the Treasurer and [the Treasury Supervisor] approached from the west, and I noticed [CMO Employee #1] appear to become more tense.

(4) TOE #4

TOE #4 indicated that her involvement in this incident was limited. She recalled meeting with CMO Employee #1 before the Dallas Cowboys' Training Camp to give her deposit bags, deposit slips, a cash bag, and keys. TOE #4 denied training CMO Employee #1 on proper cash handling, but she did confirm that she approved the forms that CMO Employee #1 was to use and showed CMO Employee #1 how to fill out the deposit ticket, a slip and the daily deposit summary.

TOE #4 indicated that, on the Monday following the opening of the Dallas Cowboys' Training Camp, she spoke with TOE #6 and TOE #9, who indicated that there was an issue related to the parking lot money. She said that TOE #6 "just felt that the people in charge were not necessarily familiar with the whole processing of, or even working with cash, they were not comfortable working with cash." TOE #4 recalled Mr. Molina entering the office as she was speaking with TOE #6 and TOE #9, so she suggested that TOE #6 and TOE #9 share their concerns with Mr. Molina.

TOE #4 had no further involvement.

Although not specifically related to the Dallas Cowboys' Training Camp, TOE #4 indicated that Mr. Molina will use his status as an elected official as a form of intimidation by reminding you that he is an elected official and that he will continue to remain as long as he is elected.

(5) TOE #6

TOE #6 confirmed that she volunteered and helped during the opening weekend for the Dallas Cowboys' Training Camp. She specifically helped to count the money collected at the parking lots. She indicated that she had concerns regarding the procedure that was used because it resulted in difficulty reconciling the money collected with the tickets sold. She estimated that there was a $300 difference.

The next Monday, she recalled speaking with TOE #4 and telling her that "somebody with cash handling experience" should help to make sure that it is done properly.

About an hour after her discussion with TOE #4, TOE #6 said that she was called into a meeting in Mr. Molina's office involving Mr. Molina, the Asst. City Treasurer, TOE #8, and the Treasury Supervisor, who all questioned her about the procedure being used at the parking lots. TOE #6 was not able to respond to their questions because she did not know the procedure. Mr. Molina

asked TOE #6 to put what she told them in writing, but she declined "because I wasn't' trying to complain. I was just basically trying to get help, you know, somebody with money handling experience because I think it would be easier for them doing the deposit and helping basically everybody." TOE #6 indicated that she felt like Mr. Molina put her on the spot with his request for a written statement because she "was just trying to get help over there because I know we wouldn't be there."

When asked about the reaction to her comments about the cash handling, TOE #6 responded:

> I feel like they went from taking a suggestion that, I told them the volunteers should be people that know how to handle cash because that's all it is, is handling cash, and it turned into, like I said, being in there for 20 minutes and being questioned about every step of the procedures.
>
> * * *
>
> I believe everyone in that room kind of blew it out of proportion.

(6) TOE #8

TOE #8 confirmed that she was part of a meeting involving CMO Employee #1 where the group discussed "something about the miscount of tickets versus what it was reported." She indicated that she was only part of this one meeting. She did not recall CMO Employee #1 becoming upset during that meeting.

Although she did not personally witness what Mr. Molina told the City Manager about the situation, TOE #8 did discuss it with the Asst. City Treasurer. She said:

> I asked, you know, [the Asst. City Treasurer] and I said, cause obviously everything was going on at that time. I said, what – what's going on. He goes – and all she – that's when she said, I think Mr. Molina went over to the City Manager's office and he just went in there and I think he – he used the word misappropriation and I think now things are, you know, a concern, you know.

TOE #8, who has worked with other treasurers, confirmed that she has never seen another City Treasurer conduct an investigation into perceived misappropriation of funds, nor does she consider such an investigation to be something that the Treasurer's Office would handle.

(7) CCS Director

The CCS Director relayed a discussion that he had with Mr. Molina relating to potentially missing money at the Dallas Cowboys' Training Camp. During that meeting, the CCS Director interpreted Mr. Molina's comments as implying that a theft had occurred at one of the parking lots. This bothered the CCS Director as City Corps, which falls under his supervision, was assigned to one of the parking lots.

The CCS Director spoke with CMO Employee #1 after her meeting at Mr. Molina's office. In describing the meeting, he said "my understanding is that he was very mean to her and I felt if I had been there, I could have back[ed] him off of her."

(8) Deputy CM

The Deputy CM confirmed that she was meeting with the City Manager when Mr. Molina entered the office and "he basically had accused her [CMO Employee #1] of stealing money she was collecting at the – we do the Cowboys training here and she was collecting payments for parking, and according to however he gets his information, she was not collecting the right amount of money."

(9) TOE #9

TOE #9 confirmed that there was an issue reconciling the money collected with the tickets sold at the parking lot for the Dallas Cowboys' Training Camp during the first weekend. He said "it just seemed like the tickets did not match up with the money. I could be wrong, I don't know." TOE #9 indicated that neither he nor TOE #6 indicated that the money was stolen.

> We just told them that it was just really chaotic and confusing, and just seemed like, like I said, like the tickets were not matching. There was one time I think, if I'm not, I mean I'm not a hundred percent sure of the amount, but just, it just seemed like the tickets and the money appeared to be somewhere in the range of like $300 short.

(10) Phillip Molina

Mr. Molina first became aware of a situation at the Dallas Cowboys' Training Camp when TOE #6 "who volunteered to participate in handling the cash, came to me the second day that she was assigned and said she felt that there might be as much as $1,000 difference between the cash that was counted and the cash that was actually received." Mr. Molina could not recall any additional details that TOE #6 may have provided. He also denied asking TOE #6 to provide a written statement.

Mr. Molina denied calling CMO Employee #1 to his office to discuss this discrepancy. He claimed that the only time that he met with her in his office was during a "pre-meeting" to discuss procedures.

After receiving the information from TOE #6, Mr. Molina confirmed that he went to the City Manager's Office. He indicated that he went to the office without calling ahead. He stated that he advised the City Manager and the Deputy CM "that I had received word that there was potential money lost at the Dallas Cowboys process and that I was gonna go out there to make sure that the procedures were being properly handled."

He indicated that he and the Treasury Supervisor proceeded to the site. Upon arriving, Mr. Molina said that he found CMO Employee #1 crying. She asked him why he had claimed that

she had stolen or taken money, which he indicated that he had not said. He asked the Treasury Supervisor to speak with CMO Employee #1 to try to calm her down since she was so upset.

When asked if he questioned CMO Employee #1 about the procedures being used, Mr. Molina indicated that he could not recall.

Mr. Molina confirmed that he went to the actual parking lot to observe the procedures being used. When asked if the Treasury Supervisor accompanied him, he indicated that he did not believe so, "but I'd rely on her memory."

When asked if he returned to talk to CMO Employee #1 after observing the procedures at the parking lot, Mr. Molina again stated that he had no recollection of that.

When asked if he communicated with Asst. COP #1 at the site, he could not recall anything of substance being discussed.

When asked if he sent CMO Employee #1 an apology email later that same day, Mr. Molina indicated that he could not remember. When showed the actual email (see Exhibit V), Mr. Molina confirmed that he sent it and that he was apologizing to CMO Employee #1 on behalf of the City for being given this responsibility without proper training. He explained that, if his office had been given notice, he would have ensured that CMO Employee #1 was properly trained.

When asked if he recalled discussing the issue with the CCS Director, Mr. Molina indicated "no, I don't. Not that it didn't happen. I don't recall."

Mr. Molina could not specifically recall any email exchange with Asst. COP #1 after-the-fact. (See Exhibit I.)

(11) Treasury Supervisor

The Treasury Supervisor first became aware of an issue when TOE #6 and TOE #9 mentioned that "the counting of the money was very unorganized because they said that the tickets didn't match the amount of the money that was accounted for."

The Treasury Supervisor recalled participating in a meeting involving Mr. Molina, the Asst. City Treasurer and TOE #6. She recalls that there was a discussion about the misappropriation of money. She specifically indicated that it was Mr. Molina who raised the issue of misappropriation.

The Treasury Supervisor recalled participating in a second meeting that included CMO Employee #1, as well as Mr. Molina, TOE #8, and the Asst. City Treasurer. The Treasury Supervisor recalled CMO Employee #1 indicating that any recommendations on how to improve the procedures would be greatly appreciated. The Treasury Supervisor stated that misappropriation was not discussed with CMO Employee #1.

That same night, the Treasury Supervisor assisted at the Dallas Cowboys' Training Camp and was concerned about another discrepancy in the parking lot money. She raised this with Mr.

Molina during a meeting the following day. Mr. Molina again raised the concept of misappropriation of funds. At that point, he indicated that it was necessary to go to the site to see the procedures being used. Mr. Molina indicated that he was going to speak to the City Manager and would meet the Treasury Supervisor outside the building to go to the site.

The Treasury Supervisor indicated that she and Mr. Molina went to the parking lot first to speak with the people running it and to observe the procedures being used. They then proceeded to the welcoming tent where they found CMO Employee #1. She approached CMO Employee #1 and said hello.

> And she immediately started crying and said that she had just received a phone call from the City Manager stating that – what was going on? That Mr. Molina was accusing her of theft. . . . And then she just started crying. She was really upset.

The Treasury Supervisor indicated that she questioned Mr. Molina about this claim. She said:

> "Did you go to City Manager's and accuse her of theft?" And he said, "No." I said, "well she's crying because she says that you went to the City Manager's and said that she was stealing money." And he said, "that's not what I said. I said I was going over there because there was possible theft. But I didn't say that it was – it was her. That was not my intent." And then I was very shocked.

When asked for her reaction to this information, the Treasury Supervisor responded:

> But at that point, I was just upset that all this had taken place. Because I thought it was very uncalled for.
>
> * * *
>
> That [CMO Employee #1] was upset and that [CMO Employee #1] had been accused of, according to the City Manager, theft. Because the intent to go there, was not to accuse anybody of theft. But to make sure that the process was being done right.

(12) City Manager

The City Manager was meeting with the Deputy CM when his Executive Assistant advised him that Mr. Molina was "coming over to talk to [him] about theft of, of cash at the Dallas Cowboys training camp." He recalled his Executive Assistant specifically indicating that Mr. Molina had indicated that he suspected theft. When Mr. Molina did arrive, the City Manager specifically asked him why he believed "that it's theft versus some other scenario." Mr. Molina did not indicate that he never claimed theft had occurred. Moreover, the City Manager described Mr. Molina's tone as follows:

> The tone of it was that something either criminal or correct, the tone of it was, it was malfeasance. Which is different from there's a discrepancy, let's figure out

> what happened. Right. It's jumping to the assumption that the explanation was malfeasance. And that was the tone.

(13) PD Commander

The PD Commander confirmed that she accompanied Asst. COP #1 to the Dallas Cowboys' Training Camp after the City Manager contacted Asst. COP #1 regarding Mr. Molina. When they arrived, she observed Mr. Molina speaking to CMO Employee #1. She indicated that CMO Employee #1:

> Looked like she was upset as we walked up. She had sunglasses on, she was kind of wiping her face, um like this, which gave me the impression that she was crying because there wasn't really—isn't any reason to wipe your eyes in that fashion if you're wearing sunglasses. . . . Her face was red and I'm assuming that she was embarrassed, but, you know, obviously don't know exactly what she was feeling and she was wiping tears away from her face and so she walked back into a tent area.

When she finally spoke with CMO Employee #1, CMO Employee #1 confirmed that she felt like she was being cross-examined as Mr. Molina questioned her. She indicated that CMO Employee #1 said that she "felt like [she] was being accused of stealing."

When asked to further describe what she observed as Mr. Molina spoke with CMO Employee #1, the PD Commander responded:

> I thought it was a little odd how close he was standing and compared to [CMO Employee #1] he's a very tall person. [CMO Employee #1] is a much smaller woman. He was standing very close proximity to her and had his hands on his hips, sort of like, you know, this over her, like leaning over her. I just thought that was weird. I wouldn't necessarily, you know, speak to somebody in that manner. In my role, you know, there is a difference in, you know, he's male or female. I wouldn't necessarily go to somebody that was smaller than me and then you know when I was questioning them in the capacity that he was – another employee – and you know use the close proximity and probably the body language. That seemed, you know with him being a much taller man, her being a much smaller woman. I probably wouldn't have done that if the roles were reversed.

When asked for clarification regarding her body language comment, the PD Commander explained:

> I think that he was definitely showing the power of his position in the way that he was standing close to her. Maybe getting the authority. Giving himself the authority to ask the questions. Whatever he was questioning her about based on what she later said he was questioning her about.

3. Analysis

a. Personnel Rules and Regulations, Chapter 3, Section 3.10 – Anti-Bullying Policy

The question that must be assessed is whether Mr. Molina violated the City's Personnel Rules and Regulations by "bullying" CMO Employee #1 with respect to this incident. (See Exhibit E.) The policy prohibits intimidation or bullying "in the workplace or elsewhere, such as at offsite events or work places." It defines "bullying" as the use of aggression with the intent of harming. It indicates that "bullying" can be written, visual, verbal, or physical, when it causes harm to the individual's person or property, interferes with the person's ability to work, is severe or pervasive, and creates an intimidating or threatening environment. (See Exhibit E.)

As noted above, the City's Anti-Bullying Policy prohibits intimidation or bullying in the workplace, as well as offsite events. In this case, the consistent testimony from CMO Employee #1, the Asst. City Treasurer, Asst. COP #1, TOE #8, the CCS Director, and the Treasury Supervisor shows that CMO Employee #1 was questioned by Mr. Molina concerning a discrepancy in the money collected for the parking lots in his office and at the welcoming tent at the training camp itself. Thus, both a traditional workplace and an offsite event are implicated.

While Mr. Molina indicated that he did not question CMO Employee #1 at his office after learning about the discrepancy, the Investigator discredited Mr. Molina's testimony in this regard. First, it was contradicted by a number of witnesses – i.e., CMO Employee #1, the Asst. City Treasurer, TOE #8, and the Treasury Supervisor, who all recalled attending the meeting at issue. Second, during this interview, when discussing this incident, Mr. Molina continuously indicated that he was not able to recall key facts. In fact, he repeatedly advised the Investigator that other individuals had great memories and would be able to recall the events with more specificity. Based on these admissions, the Investigator found Mr. Molina's denial that this meeting took place to be unreliable as the individuals he identified as having better memories included the Asst. City Treasurer and the Treasury Supervisor. Third, as noted earlier in this Report, Mr. Molina interfered with this investigation in three material manners. That interference impacted Mr. Molina's credibility and provides another basis for discrediting his statements regarding this incident.

The policy also refers to the use of aggression, whether verbal, physical or written, that harms the victim, interferes with her ability to work, is severe or pervasive, and creates an intimidating or threatening environment. In this case, CMO Employee #1 described being questioned on two separate occasions by Mr. Molina. With respect to both occasions, she described it as a "cross-examination," which supports verbal aggression. She conveyed these feelings to others (i.e., the CCS Director, Asst. COP #1, and the PD Commander), who each confirmed that CMO Employee #1 had shared these impressions in close temporal proximity to the events.

Against this contradictory evidence, Mr. Molina's denials are discredited for the same reasons noted above. The Asst. City Treasurer, TOE #8, and the Treasury Supervisor indicated that CMO Employee #1 did not appear upset at any point during the meeting in Mr. Molina's office. However, even if she did not appear upset, Mr. Molina's questioning could nevertheless have been interpreted as a cross-examination by CMO Employee #1, who confirmed that she felt

intimidated by the events. Thus, the Investigator did not rely on the Asst. City Treasurer's, TOE #8's, and the Treasury Supervisor's impressions of CMO Employee #1's emotional state. Moreover, CMO Employee #1 is a better judge of her emotional state; therefore, her statements carry more weight.

In addition to displaying verbal aggression, Mr. Molina also showed written aggression when he sent an email that, according to CMO Employee #1, "basically [told] council that there was mishandling of funds, that theft was going on." Since CMO Employee #1 was exclusively in charge of those funds for the Dallas Cowboys' Training Camp, it is reasonable to assume that she would have viewed this email as a personal attack on her integrity or competency. In either event, Mr. Molina again demonstrated an aggressive intention toward CMO Employee #1.

Finally, both Asst. COP #1 and the PD Commander described Mr. Molina standing close to CMO Employee #1 in an aggressive posture when questioning her out at the training camp location. Both individuals described this as a form of physical dominance designed to set a command presence as Mr. Molina questioned CMO Employee #1 for a second time about the discrepancies. Given the extreme difference in size between Mr. Molina and CMO Employee #1, it is reasonable to assume that such an aggressive stance would have been considered intimidating by CMO Employee #1, which is confirmed by her referring to this exchange as yet another cross-examination.

With all three forms of aggression (i.e., verbal, written, and physical), a reasonable person would realize that CMO Employee #1 was likely to suffer harm in terms of the attack upon her character and integrity. In fact, by issuing the two emails discussed above, Mr. Molina publicized the issue to a wide audience; thereby, magnifying the amount of damage that CMO Employee #1 sustained. Moreover, since the underlying claim of theft proved untrue, Mr. Molina's emails constitute a spreading of rumors that is also prohibited under the policy.

As it relates to the severity or pervasiveness of these acts, the acts of aggression took place in a relatively small window of time. Therefore, they do not appear to have been pervasive. However, given the fact that CMO Employee #1 was brought to tears by the aggressive nature of Mr. Molina's conduct, which was confirmed by Asst. COP #1, the PD Commander, and the Treasury Supervisor, the acts were sufficiently severe to satisfy this component of the policy.

Finally, any reasonable person in CMO Employee #1's circumstances would have perceived Mr. Molina's conduct as creating an intimidating or threatening environment.

b. Duties of the City Treasurer

The question here is whether Mr. Molina's duties include investigating potential criminal conduct, including questioning employees who may be implicated. (See Exhibit C.)

It is undisputed that Mr. Molina initiated an investigation into what he believed to be a discrepancy in the parking lots' money collected for the Dallas Cowboys' Training Camp. Several individuals (i.e., CMO Employee #1, Asst. COP #1, the CCS Director, the Deputy CM, the Treasury Supervisor, and the City Manager) confirmed that Mr. Molina referred to the issue as a theft or misappropriation of funds. Even Mr. Molina confirmed that he used the term "theft"

in describing his suspicions. (See Exhibit AA.) In either case, Mr. Molina suggested criminal activity. Moreover, he chose to question CMO Employee #1 on two separate occasions, which CMO Employee #1 described as a cross-examination. That style of questioning suggests a criminal investigation, as opposed to a mere desire to correct procedural errors.

Nowhere in Exhibit C is there any reference to the City Treasurer's duties including the investigation of criminal activity, even when related to City funds. Despite the absence of any authority to investigate, Mr. Molina admitted that he was, in fact, investigating the issue. Thus, he exceeded the scope of his office.

D. Did Mr. Molina engage in "keyboard warfare" by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Public Works Department's expense?

1. Finding

By a preponderance of the evidence, the Investigator finds that Mr. Molina engaged in "keyboard warfare" by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Public Works Department's expense. A preponderance of the evidence further shows that, by engaging in this conduct, Mr. Molina violated the City's Personnel Rules and Regulations, specifically those related to anti-bullying.

This allegation is substantiated.

2. Facts

a. Documents

In support of the allegation that Mr. Molina used misleading emails that were blind copied to various individuals, including members of the public, the Investigator was provided with multiple examples by various witnesses. Therefore, the Investigator makes reference to Exhibits F, H, I, J, L, P, Q, R, S, T, W, X, Y, and Z in support of this claim. In order to more specifically address these allegations with particularly persuasive examples, particular attention is drawn to the following documents:

(1) City's Personnel Rules and Regulations

The City's Personnel Rules and Regulations, Chapter 3, Section 3.10 – Anti-Bullying Policy reads, in pertinent part, as follows:

> 3.10 ANTI-BULLYING POLICY
>
> . . . the City also prohibits any form of "intimidating or bullying" in the workplace or elsewhere, such as at offsite events or work places.

3.10.1 POLICY COVERAGE

> . . . Bullying is the use of aggression with the intention of harming another individual. It can include any intentional written, visual, verbal, or physical act, when the act physically harms the individual or damages his or her property; has the effect of interfering with an employee's ability to work; is severe or pervasive; and creates an intimidating or threatening event.
>
> Bullying comes in many shapes and sizes and can take many forms including, but not limited to . . . abusive comments, . . . spreading rumors . . . . Such conduct can also occur via use of electronic or telephonic communications such as the internet, email and chatroom misuse, mobile threats by test messaging or calls, or misuse of cameras and video equipment. (See Exhibit E, Chapter 3, Section 3.10 – Anti-Bullying Policy.)

(2) Exhibit J

Exhibit J is made up of a string of emails provided by Asst. COP #1 that relate to Mr. Molina divulging attorney-client privileged communications to the public. Although these particular emails and the underlying subject do not relate to the Public Works Department, the situation is nevertheless relevant and illustrative as the emails show Mr. Molina engaging in the type of conduct relative to emails as alleged by the Public Works Department. The emails show Mr. Molina requesting and receiving advice from the City Attorney's Office regarding an issue facing his department. The emails also show Mr. Molina then taking portions of those privileged communications and making them public. In fact, Mr. Molina engages in a back and forth with a member of the public, who identifies herself as an attorney, regarding the propriety of his actions.

(3) Exhibit P

Exhibit P is an exchange between Mr. Molina and the HR Director, regarding Voya, a new third-party provider for retirement programs, which was selected following cooperative discussions between the City and various unions. This particular issue does not directly involve the Public Works Department, but it is again relevant and illustrative as the emails show Mr. Molina's practice of blind copying various individuals, including members of the public and media. The first two pages of the exhibit show a list of well over one hundred individuals that were blind copied on the emails that Mr. Molina was exchanging with HR Director.

(4) Exhibit R

Exhibit R includes an exchange between Mr. Molina and a sitting councilmember. In Mr. Molina's first email, he writes "I've been told you are ordered to not communicate with me and I regret that you have been drawn into this." In response to this claim, the councilmember wrote:

> I was NEVER TOLD not to communicate with you, I hope you verify the information you claim to have. Again I was never told not to communicate with the City Treasurer for the City of Oxnard, Mr. Phillip Molina, in the past, present,

> or future. It did not happen[.] I did ask why your email was cut off and I feel it would be in your best interest to explain that yourself.
>
> Phillip I request you share this with all those you sent your claimed information out to as it implies things IN MY SPECIFIC CASE that are not true; the use of words is a skill that can inform or confuse, innuendo is not a tool to inform and only casts doubt on the supplier of such.
>
> I have cc[‘d] parties I feel need my statement, avoided a Brown Act issue by including on two other Council members and for anyone requesting a copy I have included the elected Oxnard City Clerk as she would not need to request this information as it will be in her [possession].

The document shows Mr. Molina misrepresenting facts to support his position. However, in this case, his efforts to mislead were called out by the councilmember who not only confronted Mr. Molina regarding his misinformation, but recommended that he correct his error by circulating the correct information to everyone he had sent the initial email.

(5) Exhibit T

Exhibit T again illustrates Mr. Molina’s inclusion of more than two hundred individuals as blind copies on this email.

(6) Exhibit W

Exhibit W does involve the Public Works Department and mirrors the same issues illustrated in the earlier identified documents. For example, in his communication with the PW Director at the end of this email string, Mr. Molina voices his disagreement with her assessment of the situation. However, he chose to blind copy this portion of the exchange to one hundred sixty-six people.

(7) Exhibit X

This is a December 20, 2017 memorandum from then-Assistant City Manager to Department Directors. In that memorandum, then-Assistant City Manager wrote, in part:

> . . . Mass e-mails shall only be sent to recipients reasonably necessary to consider the information being communicated. The List shall only be used to communicate matters of considerable importance to the City as determined by the City Manager or his or her designee(s). Only the City Manager or his or her designee(s) may use the List to send mass e-mails.
>
> * * *
>
> . . . As such only the following employees are designated to use the “all” email list in conformance with this policy: City Manager; Assistant City Managers; Media & Community Relations Manager; Police Chief and Assistant Police Chiefs; Fire Chief and Assistant Fire Chiefs; Human Relations Director and the Information Technology Director.

All of the examples specifically discussed above post-date this memorandum.

(8) Exhibit Y

This is a memorandum dated November 2, 2017 from the City Attorney to Mr. Molina addressing the "City Policy and Ralph M. Brown Act re Use of City Email System." The City Attorney wrote, "your use of the email system for such mass mailings may have violated the Brown Act and, therefore, the City's policy on the use of technology and devices."

This demonstrates Mr. Molina's historic practice of mass emailing and violation of City policy on the use of email.

(9) Exhibit Z

On December 4, 2018, Mr. Molina was issued a Letter of Reprimand "for your repeated improper use of the City of Oxnard e-mail system and release of confidential information to the public." In support of this conclusion, the City Manager wrote, in pertinent part:

> Prior to October of 2017, you used your City e-mail account to send out a variety of e-mails to every City employee using the all@oxnard.org e-mail list. You also forwarded confidential and privileged e-mails sent by the City Attorney's office to a list of outside recipients without authorization from the City Council.
>
> On October 4, 2017, you were informed by Oxnard City Attorney [ ] that your use of the Oxnard e-mail system is this manner violated Oxnard Personnel Rules 18.4.2 as well as the attorney-client privilege.
>
> * * *
>
> Despite [the City Attorney's] discussions with you on October 4, 2017 and his November 2, 2017 memorandum to you and the implementation of Administrative Policy number 18.4.6, you continue to send out mass e-mails, using your official Oxnard e-mail account, through the use of either copying (cc) or blind copying (bcc) dozens or hundreds of individuals, including the general public, City of Oxnard employees, or outside attorneys.
>
> * * *
>
> In sum, these e-mails sent by you from your City e-mail account between November 5 and November 20, 2018, in which you either copied or blind copied a large list of e-mail recipients, continue to violate Oxnard Personnel Rules 18.1.2 and 18.4.2 and are inappropriate mass e-mails. These e-mails also appear to attempt to convey, in the face of all evidence, that you are the only person within the City of Oxnard who is guarding the public coffers, and imply that you alone have the best interests of Oxnard in mind. Finally, these e-mails reflect a lack of professionalism and good judgment on your part given that you use your official position and City resources to publicize mostly your opinions.

* * *

> Your continued use of the City's e-mail system to copy dozens of individuals serves no official purpose and appears designed to undermine the City and its officials, misleads the public and creates a negative perception of the City organization.
>
> You are ordered to immediately do the following:
>
> 1. Cease using your City e-mail account to divulge confidential City information with the public by either copying or blind copying individuals who are not entitled to this confidential information.
>
> 2. Remove your signature block footer from your official City E-mails in which you admit to releasing confidential information and express your personal disagreement with the City's confidentiality policy.
>
> 3. Cease using your City e-mail account to send out mass mailings.

b. Witnesses Statements

Nineteen individuals interviewed consistently stated that Mr. Molina sends out multiple emails daily that typically involve his communications with other departments and do not relate to their work assignments. They confirmed that they are typically blind copied on these emails. These witnesses are Finance Department Employee #1 ("FDE #1), the Asst. City Treasurer, Asst. COP #1, the Purchasing Manager, IT Director/Chief Information Officer ("IT Director"), the PW Director, TOE #6, Asst. City Manager, TOE #8, the CCS Director, the Deputy CM, the Treasury Supervisor, TOE #10, TOE #12, the PD Commander, Asst. COP #2, the Asst. CFO, the Controller/Senior Manager Internal Control ("Controller"), and the Management Accountant/Auditor ("Auditor"). No one interviewed denied that Mr. Molina engages in the alleged conduct. Since Mr. Molina declined to appear for a second interview, the Investigator was unable to ask him for his position relating to this allegation.

In order to set the proper context for this allegation, the summaries begin with the PW Director, who initiated the complaint on the Public Works Department's behalf. Thereafter, the summaries are provided in alphabetical order by the witness' last name. The summaries do not include all nineteen identified witnesses. Instead, for the sake of efficiency and brevity, the summaries relate to specific individuals who provided particularly illustrative examples.

(1) PW Director

When raising the issue of Mr. Molina's use of the e-mail system, the PW Director stated:

> It almost feels like he just likes to flex muscle, but it harms the City. And if there is an error on billing or something comes up, if he could find something, he'll blast it out. You know he'll make it look like "I've done this wonderful thing and found this error and saved the City," but he's got a blind copy list of a whole lot

> of people, so you never know the other thing. He sends you an email and he's copying all kind of people, you don't even know who he's copying. And a lot of times, my understanding is that these would be people in the community who are his supporters, so he has the opportunity to paint the City in whatever light he wants and we don't even know who he's included in this email.

In order to place the magnitude of this issue in context, the PW Director explained:

> I was warned by the City Attorney's Office that just know that he blind copies folks so be careful, just know you don't know who the recipients if you hit "reply all." And so there's a feeling that sometimes he's baiting you to an argument that can play out publicly.

To support the claim that Mr. Molina baits individuals into arguments, the PW Director provided the Investigator with a sampling of emails that illustrated the point. (See Exhibit K.)

In short, the PW Director complained that Mr. Molina uses his emails, including his blind copying, as a tool to achieve his agenda.

(2) Asst. COP #1

As noted earlier in this Report, Asst. COP #1 provided a written statement regarding the issue related to the Dallas Cowboys' Training Camp. In that same written statement, Asst. COP #1 addressed Mr. Molina's practice related to emails and wrote:

> Historically, he has demonstrated that he will have a one-on-one conversation with someone, and following their encounter, will send [an] email to a wide distribution of "bcc'ed" persons, recapping their contact on his terms and from his side of the story. These emails are typically cast with a negative slant toward others, and are often self-aggrandizing. . . . His emails are known for mischaracterizing matters, accusing staff, questioning integrity and character of staff, or grandstanding. His emails are often patronizing and condescending.

Additionally, following his interview, Asst. COP #1 provided the Investigator with a copy of a binder that he indicated related to Mr. Molina. In that binder, Asst. COP #1 included a string of emails related to Mr. Molina divulging attorney-client privileged communications to the public. The emails show Mr. Molina requesting and receiving advice from the City Attorney's Office regarding an issue facing his department. The emails also show Mr. Molina then taking portions of those privileged communications and making them public.

Asst. COP #1 described Mr. Molina's email practice as a huge strain on time at the City. In this regard he said:

> It is exponentially disproportionate. I would put that in quotes. Like, I could qualify that a little bit further. In terms of that, prior to him, assuming his office as the treasurer, we spent very little time as I mentioned and so now, not only was I getting several bcc emails a day, and I would read through them to see where are

> we going with this, does this have anything to do with me? Does it have anything to do with the police department? You know, and you find out when you and find out when you get through the string that it has nothing to do with anything to do with the police department, that takes time. Multiply that times all the line staff that, at the police department, that were receiving emails as well, because I know people at the line-level still, you know, and I talk to them and they're like "hey, who is this Phil Molina guy?" The people who really didn't know who he was, "why am I getting all these emails from him?" People were telling me that they were seeing all these odd emails that were popping up. They were getting any from once a day to several times a day. And so, that's taking their time, not just mine. So now this is multiplied by a factor of nearly 400 employees at least in the police department who are potentially getting these. The materials he sent, you know, like I said, had nothing to do with police operations. They were often times either I would call, like some kind of squabble between him and either the City Attorney, the City Manager, the IT Director, those were three people he was particularly very back and forth with. I would say quite nasty with them. A variety of topics, especially the City Manager, the City Attorney. He included some emails of discussions that he had with the mayor, so anyway. Seeing those things happening did take a lot more time. And so, at some point, you make a decision whether or not you're going to continue to read them or you're going to just start deleting them, and so what I saw happening was, in my opinion, was a gross abuse of the City's resources and colossal impact on staff time. Add to that, there were a few occasions where I did respond to him, so the time to go back and forth with him on a particular issue takes time, and these are usually over things that I was questioning why he was doing.
>
> And also, it took me a little bit of time than it would for any other email because I'm realizing that I'm writing something to an elected official that I need to make sure that the email response is professional, it's articulate and prepared to be put in front of the potential bcc audience, for example if we go back, we'll probably get to this later, but the July 30th incident that happened with him and some City staff here, it literally took up a significant portion of my Thursday, Friday and part of my weekend just dealing with his emails and dealing with the collateral damage that was taking place because of that, so it's unreal. It's unreal, inappropriate and unnecessary I think are ways that I feel that what our, not just myself, but other employees and staff members and City employees had to deal with.

In terms of Mr. Molina's misrepresentations, Asst. COP #1 indicated that Mr. Molina will remove portions of email strings in order to make the communication support his position. In this regard, Asst. COP #1 pointed to his back and forth with Mr. Molina regarding CMO Employee #1 and Mr. Molina's apology email. Asst. COP #1 indicated that portions of his responses were edited in the versions that Mr. Molina shared with the public.

(3) Purchasing Manager

Like the PW Director, the Purchasing Manager indicated that she had also been warned not to respond to Mr. Molina's emails. She specifically said:

> I was directed by the previous CFO and Assistant City Manager to never, ever reply to him again. Because he threw me under the bus so many times. And had blind copied all his constituents. And his, he was antagonistic in his emails.

(4) IT Director

The IT Director described a particular incident when Mr. Molina publicized highly confidential information regarding a potential breach of the City's on-line payment system, which could have resulted in additional breaches. He said:

> So, very adversarial relationship in general with Mr. Molina. As I mentioned before his actions are ones that show he's attempting to make staff look bad, however and whenever he can. He does this under the guise of trying to say he's an advocate for the people that elected him. But while at the same time he's jeopardizing the people that elected him who are our residents. And so one example in, oh back in the middle of 2018, we had a scenario where our ERP System clicked the GOV online payment system was breached, or potentially breached. Something that we later found out had happened to a dozen cities across the nation. It was due to some code that the company used that wasn't kept up to date and some network settings that allowed hackers to exploit a known vulnerability in some web logic software that a company uses for online payments. The, Mr. Molina found out about that and there are exceptions in the Public Records Act that allow cities to not release information publically when it exposes a vulnerability about a system that could cause attacks. Could cause your systems harm. Mr. Molina clearly violated that by taking information about this, at that point supposed hack, and publically emailing it to people, letting people know that there are vulnerabilities in our system. Something you definitely don't want to do before you allow the vendor and us internally to take action to protect ourselves from further attacks. I met with Mr. Molina sometime middle of '18, probably in May, and explained in confidence to him how the system technically worked. Where the company thought the vulnerabilities were in the system. I drew it on his whiteboard, network diagram, servers, software names, ports, and explained how traffic flowed from the internet with payments into our network, into the systems, where the known vulnerability was from the web logic software, and back out again. Explained to him that this is highly confidential and dangerous if you share this information with anyone before Superian Sun Guard HTE has a chance to fix this problem, along with our help from our network engineers locally. And when I left his office I erased his whiteboard with all this information, I told him it was confidential, and when I get back to my office later that day, I got an email from Mr. Molina, basically he had retraced the network diagram everything I wrote on his board, off the ghosted images of the dry erase markers. So you could still see the images there even though they had been

> erased. He retraced all of those, took a picture of it, emailed it to me, and said something like, yeah I can't get this image off my whiteboard, can you buy me a new whiteboard? I replied, tried to keep it light and said jokingly, ha ha, this is confidential, please do not share this information with anyone. So he ;proceeded to take that same image and forward it to a group of people via email, letting them know that this is what he had learned from me, in person.

Ironically, the IT Director stated that he discovered that Mr. Molina divulged this information because he was included on the email.

In describing Mr. Molina's general email practice, the IT Director said, "Mr. Molina's demeanor has been, I've got to make myself look good, and all the rest of staff look bad."

(5) Deputy CM

Similar to other individuals, the Deputy CM also provided specific examples to illustrate Mr. Molina's email practice. She provided the following description of Mr. Molina providing false or misleading information:

> So another example is he communicated wrongly, so—and he knows it's wrong—to one of our labor unions in the latest budget—we had a very contentious budget process. He communicated wrong information to one of our labor unions. Our labor union put out an ad that basically blamed our Finance Department for hiding money or stealing money or something along those lines. We can get you a copy of the ad. Now, that's on the union for putting out the wrong information, but they got it from him. And he knows it's wrong.

The Deputy CM also provided an example of Mr. Molina's publicizing of attorney-client privileged communications. She said:

> That's another—again, I'm off on tangents, but when I was at the City Attorney's Office and he still does this to the City Attorneys, there were multiple times when we said to him "You cannot—this is attorney-client privileged information. You cannot disseminate this information." And he sends it out anyway. So, you know, which is—as you know, as an attorney—incredibly dangerous to send out information. He would send out—we would provide a legal analysis to him, he would request, you know, "Can I do this? Can I do that?"—whatever it is, we would provide the response to him and then he would send that out to many people by email and that left us, as attorneys, and it still leaves them in the City Attorney's Office—you can talk to [the City Attorney] about this—it's in this weird quandary of "Well, do we not advise our own staff then?" We've got a whole Department that we can't provide legal advice to because they don't keep that information confidential. But then you've got the potential for real problems here.

(6) Asst. COP #2

Like several other witnesses, Asst. COP #2 also provided an example of Mr. Molina publicizing highly confidential information as a result of this email practice. Specifically, Asst. COP #2 identified an April 10, 2010 Confidential Memo from then-Police Commander that "detailed information about the security procedures used in the Oxnard City Treasurer's Office to safeguard employees and funds." (See Exhibit L.) Asst. COP #2 stated that a copy of this document was provided to Mr. Molina after he began his tenure as the City Treasurer. He explained that Mr. Molina was concerned about the security at the City Treasurer's Office and asked if the Police Department could perform an assessment. Mr. Molina was provided with a copy of the 2010 memorandum in response to this request. Asst. COP #2 said that, after he received a copy of the memorandum and despite the fact that it is stamped "CONFIDENTIAL (*NOT FOR PUBLIC RELEASE*)", Mr. Molina nevertheless attached the document to one of his emails and sent it to multiple individuals, including members of the public. Specifically, Asst. COP #2 stated, "this is law enforcement sensitive information and he sent it out to everybody."

(7) Asst. CFO

The Asst. CFO also spoke of Mr. Molina's practice of publicizing sensitive information in an effort to enhance his own image while negatively impacting the City's image. In this regard, the Asst. CFO explained the negative impact that Mr. Molina's actions had:

> We already have a trust issue in this City with our citizens given all of the decades long mismanagement that has happened and we're really working hard to rebuild that trust and get the credibility and he's really undermining that with this kind of stuff.

To bolster her statement, the Asst. CFO shared an example involving emails that Mr. Molina sent out after the City drew down on a bond account. The Asst. CFO explained that, when a bond is approved, the associated money is placed in a separate account so that it is not comingled with the City's other funds. As the associated work is performed, the City will pay the amounts due from its own bank account and then will draw down from the specific bond account in order to repay the money that was advanced. These "drawdowns" simply reimburse the City for the funds that were already spent on the associated improvement. The Asst. CFO emphasized that this is not new money.

Not long after the Asst. CFO joined the City in early 2019, she became aware of a bond account that had not been drawn down for quite some time. She discovered that approximately $5.6 million in reimbursements were owed from this bond account. While all of this money still belongs to the City, from an accounting standpoint, it is proper to draw down from the bond account and to move the money into the account from which the original services were paid. This is akin to taking money from the right pocket and putting it into the left. In advance of this particular draw down, the Finance Department advised Mr. Molina that he would be receiving a large reimbursement.

The Asst. CFO explained that this was all taking place during or shortly after the City faced serious financial issues that resulted in the loss of multiple jobs. When Mr. Molina was advised

of this reimbursement, he accused the Finance Department of theft and claimed that this was "new" money that could have been used to save jobs. Mr. Molina so advised the unions through emails, which resulted in the unions taking out an ad in a local paper accusing the City of impropriety. The Asst. CFO explained that Mr. Molina did all this despite the fact that she and her staff explained to him multiple times that this was not "new" money, but merely constituted a reimbursement of funds that were already expended for their approved purpose.

After providing the above example, the Asst. CFO provided the following description of Mr. Molina's use of emails:

> Well, I mean, you know, if we look at the emails beyond this bond issue, it—there's so many things. He just nitpicks, right? And he tries to correct—like this one, where I made a statement in a City Council meeting and I referred to fund balance for an enterprise fund and he feels that I should have said "retained earnings." Well, you know, okay but I was speaking generically to non-accountants who understand fund balance better, right? But he has to send an email to correct me. It's just—and when he does it, he copies a bunch of people. It's not just like to me and saying "Okay, well you should've said retained earnings." Well, okay. It's ridiculous. Here's another example where he—on a wire transfer, asked me about which fiscal year this item belonged to. I followed up, I responded, I confirmed it's related to fiscal year '19-'20. He doesn't accept it. He comes back "Really?? Okay, well blah, blah, blah, blah, blah. How could this be?" It doesn't make sense to you, then I have to go back again and say "Yes, I have confirmed that it relates to fiscal year '19-'20." And that's—like why do I have to keep proving things? It's just—"it's my job to make sure things are accounted for in the right fiscal year. Not yours. You asked me the question. I responded. Leave it at that." But he can't. This one he's questioning how we're accounting for a particular interest payments. Oh, this was a great one. I love this one. So, the Treasurer's Office received a payment for $5,000 related to a civil fine or something and they needed an account to record it against. They sent the email to me, first of all, which is odd because typically it doesn't need to come to my level for something like that. That could go to our accountant who's responsible for recording revenues and receivables. It could've gone to the Controller. But for whatever reason, they submitted it to me directly. So, I forwarded it to my Controller and to the Finance Manager in the Police Department because it was related to a police fine, so say "What account do you guys want this booked to? Because I don't need to get into that level of detail and you know, like defining or identifying what account it is." So, I copied the person in Treasurer's Office who asked the question that I said "Okay, can you please let Treasurer know what the appropriate account string is?" So, I don't think I copied Phil on this. I wouldn't have normally, but anyway, so he gets to Phil and he sends me an email and he copies his staff, he copies the Police Finance Manager, and he says "Let me know if you want to talk about the proper fund and account to post the entry. I have some texts on the subject." Meaning like textbooks. Like, "I don't—I'm a CPA. I know how to account for things. I don't need your textbooks. I don't need you to tell me. This is just a matter of having

> the appropriate people who are close to the transaction identify which account—which specific line item it should go to. That's all it is." But no. He has to send an email like that completely insulting me. And he gets this one—I can't remember what this was about. Oh, we had a billing issue with our—one of our utilities with one of our customers, and I was helping because—because he was questioning what the water fund—Water Department had calculated as being due to us by this customer, and he questioned it so Head of Public Works pulled me in to be the arbitrator of getting these numbers reconciled because, quite honestly, nobody wants to deal with him. Okay, so I said "Fine. I'll look at it. Blah, blah, blah." But I was really busy that day and I said "I won't be able to look at this today. I'll get to it tomorrow. Is there an urgency? Does this need to get resolved right away?" And the Water Department said "No, no, no. It's fine. It can wait a couple days." And the City Attorney was involved as well. And so we responded that—or [the City Manager], I think, sent him an email saying "No, Finance is going to look into it." And then he says "Let me know when Finance staff wants to meet with Treasurer staff so we can educate them." Okay? Then he sends out this email—again, I'm pretty sure this got copied to a bunch of people. "Here is more money for the general fund. Stop allocating interest earnings to any of the RDA successor agency funds." So, again, he assumed that this was happening. He sends out this email. We go ahead and look into it and sure enough, there is no interest income being allocated to the successor agency funds. And then, yeah. It's just—it's just again, it's like "You don't need to send out emails like this. Just ask us the question first and let us confirm first before you just make it seem like 'oh, we found more money.'" I think he's trying to, you know, make himself look like the savior for the City. Anyway, so that was that one. And these were all related to the [unintelligible]. So those are a sampling of things. Again, I didn't—I don't save all my emails. There was a—not that long ago, I sent an email to [the CFO] and the Deputy City Manager, to give them an idea of the amount of distractions that we deal with from Mr. Molina. I went through and I looked at my inbox for like just a two-week—the most recent two-week period and I had 58 emails from him. Now, if you remember, too, at the beginning of our conversation, there really isn't necessarily a need for us to have a daily interaction in our roles. But in two weeks I had 58 emails that I had to address or respond to or do something with. And I would venture to guess that a good majority of them unrelated to his specific role as Treasurer. It's, you know, him looking into things that are outside his scope. (See also Exhibit G.)

(8) Controller

The Controller confirmed Mr. Molina's practice of providing inaccurate or misleading information in his emails. She said:

> There was some time ago, there was communication on a successor agency. And he was communicating faulty, falsely information that we had, you know, several millions of dollars. We hadn't reconciled it. And we had. So he's always, the majority of his emails are faulty information. And very mistrust, leaves, leaves

> the community, I would think, when the public is on there to very distrust the City, yea.

(9) Auditor

The Auditor confirmed the Asst. CFO's example regarding the $5.6 million draw down and the damage that Mr. Molina's subsequent email caused. He specifically stated:

> He basically, he sent out an email and he cc'd a number of people on it and we don't know how many people he blind cc'd, but he had a history in the past of blind cc'ing people up to 100 of his constituents, I'm not sure exactly, at least that's what I've been told by various people. But he said that what we were doing is illegal, not only were we accounting for things inappropriately, what we're doing is illegal and what we're doing is illegal, essentially. Now shortly after that, now there was only a few people that knew about the requisition up till this point, it was me, [a former CFO], the Asst. CFO, maybe some other people in finance department, and Phil Molina. Then all of sudden, the next thing we know there's a big humongous, and I think he told [a councilmember]. Well, the people he cc'd on this, using this email, and whoever he blind cc'd, we don't know. But he specifically, the next day, the next day or so, in the newspaper in Ventura County Star, there's a full page article saying that the City just found, the finance department, just found $5.6 million in new money, and this was put out I believe by SEIU, the Union and this could be used to save jobs and as result, and it says "What other things is the City hiding?"

The Auditor provided another example of Mr. Molina's circulation of misinformation through his emails. The following exchange took place:

> AUDITOR: Yeah, to me this fits into a large picture, in my mind, it's my opinion, of him trying to be a hero for the City. So the successor agency is also, this is something that's not part of that big pie, it has its own separate bank account, the City's winding it down, we have fiduciary responsibility, it succeeded the former RDA that was dissolved per Governor Brown back in 2012. And there's this question why does the successor have such money, he shouldn't have this much money, in which case our consultant, . . . and she came to show, this is what makes up all this money, a lot of it is because we requested more than we ended up spending, and subsequent request, our allocation would be reduced. She showed what makes up all of that money, it's about $10 million. It should only be about, whatever, like six months' worth. So she went into that and it was a big dispute and then he said "oh, she's not an auditor, she's just a consultant." And so there's this back and forth and it's been ongoing since before I got here. That's in one case and so he's basically saying, somewhere we're not accounting for it correctly.
>
> LUNA: Well, just to make sure I understand. As the City Treasurer, do you not believe it to be within his scope of work, his job duties to look into the successor agency, or what is it that you think is inappropriate in terms of his . . .again, I'm

trying to distinguish between an individual perhaps having a different opinion on how to account for something or you know, the methodology used or what have you, versus doing something that, for example, the last thing we discussed. The email takes it a step beyond. You're no longer just expressing a different opinion, you are now announcing it publically and making an accusation that you cannot substantiate that is, you know, critical of people who have not done anything wrong. Is there something related to this successor agency that is similar to that, where you think he took it a step to far? You're no longer disagreeing or not understanding the methodology, you are now acting inappropriately.

AUDITOR: In that case, I mean I can't really find anything. In that case, it is within his scope to be able to look and "why is there so much money" what have you. So in that case, I guess no, I wouldn't say it's outside of his scope and it's certainly within, but I don't think anything we ever provided has ever been sufficient for him and so, it's like whatever, we can't do anything about that. There was an instance though where, as I said before, some of the things I submit, and in this case it was related to the successor agency, where the successor agency and as well as other debt payments that I've made and submitted to him and I've put on there, if you have any questions, feel free to contact me, and the next thing I know, the next morning, he's emailing the City Manager, the City Council, basically saying that the way we're requesting this to be posted is incorrect. And then on top of that, he excluded some of the information that I have provided from that, so I had to go back and reply and say "hey, this is what happened." Some of it is accounting stuff that most people is like "what does this mean and what does that mean?" so instead of coming and talking to me, instead of calling me and saying "hey, I have questions on this" he just immediately escalated it to City Manager and the City Councilmen and at that point, I had never even talked to him, never seen him face to face. I believe [then-Assistant CFO] was here at that time and so I was like "Oh my gosh, what the heck. It's going all the way up to the City Manager."

3. Analysis

As outlined above, all of the information provided to the Investigator concerning Mr. Molina's use of emails was consistent and demonstrated his practice of using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the expense of others. In fact, there was no information provided to counter this conclusion.[11] Given Mr. Molina's general practice and the PW Director's specific complaints on the Public Works Department's behalf, it is reasonable to conclude that Mr. Molina remained consistent with his general practice and engaged in "keyboard warfare" by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Public Works Department's expense.

[11] The Investigator was unable to specifically question Mr. Molina regarding this practice or the specific allegations involving the Public Works Department because Mr. Molina declined to meet with the Investigator for a second interview.

In engaging in such conduct, Mr. Molina violated the City's Personnel Rules and Regulations, Chapter 3, Section 3.10 – Anti-Bullying Policy.

As noted above, under this policy, the City prohibits any form of "intimidating or bullying" in the workplace or elsewhere. In this regard, bullying is defined as the use of aggression with the intention of harming another individual. It includes written materials that affect or interfere with an employee's ability to work; is severe or pervasive; and creates an intimidating or threatening event.

Bullying includes, but is not limited to abusive comments, name-calling sarcasm, spreading rumors, or teasing. Such conduct can also occur via use of electronic communications such as email. (See Exhibit E, Chapter 3, Section 3.10 – Anti-Bullying Policy.)

In this case, the various examples of and statements regarding Mr. Molina's use of email demonstrate a consistent pattern of intimidation wherein Mr. Molina would place employees in the unfavorable position of having to defend themselves to an unknown audience to whom Mr. Molina had provided misleading or occasionally false information. The witnesses consistently commented on the amount of time that they had to invest in addressing these emails, which necessarily took away from them performing their regular duties. They also uniformly indicated that such communications had a negative effect on the City's image in an environment where the public already distrusted the City because of prior actions. The witnesses stated that they would receive hundreds of emails a month from Mr. Molina that took this aggressive and accusatory tone, which establishes a pervasive pattern of behavior. The negative impact was so considerable that several individuals, such as the Purchasing Manager, were advised not to respond to Mr. Molina because he continued to portray them in a negative light.

E. Did Mr. Molina exceed the scope of his position as City Treasurer by engaging in a review of the accounts payable register of checks and holding checks, including checks requested by the Public Works Department, that he determined lacked sufficient funding or supporting documentation?

1. Finding

By a preponderance of the evidence, the Investigator finds that Mr. Molina did not exceed the scope of his position as City Treasurer by engaging in a review of the accounts payable register of checks and holding those checks, including checks requested by the Public Works Department, that he determined lacked sufficient funding or supporting documentation.

This allegation is unsubstantiated.

2. Facts

a. Documents

(1) January 26, 2017 Memorandum re Duties of City Treasurer

On January 26, 2017, then-Assistant City Attorney issued a memorandum to then-Assistant City Manager, regarding the Duties of the City Treasurer. (See Exhibit C.) That document reads, in pertinent part, as follows:

> Below is a listing of the Treasurer's chief statutory duties:
>
> * * *
>
> • Pay out of money on properly signed warrants (Gov't Code § 41003)
>
> * * *
>
> The main role of the Treasurer in disbursement of funds: "Funds belonging to a municipality may be withdrawn only in the manner prescribed by law and usually the city treasurer is only the custodian of the city funds." Draper v. Grant (1949) 91 Cal.App.2d 566, 570.
>
> * * *
>
> • The City Treasurer is required to pay written demands submitted and audited by the CFO (OCC § 2-184) [fn. 9]
>
> * * *
>
> [fn.] 9 Willful refusal to pay or transfer public moneys can constitute a crime under Penal Code §§ 424-426.

(2) June 28, 2017 Letter from Liebert Cassidy Whitmore

On June 28, 2017, Liebert Cassidy Whitmore sent a letter to then-Chief Financial Officer; HR Director; and the City Attorney for the City, providing an analysis of the City's Accounts Payable Finance Procedure. That letter reads, in pertinent part, as follows:

> . . . the City Treasurer shall specify the purpose for which a warrant or check is drawn and the fund from which payment is to be made.
>
> * * *
>
> . . . all warrants must be signed by "legally designated persons," . . .
>
> * * *

> Section 2-168(B) provides that the "city treasurer shall also perform such administrative duties as assigned by the city manager."
>
> * * *
>
> Section 2-184 provides: . . .
>
> The city treasurer shall subscribe a direction to the depository of funds to pay the funds to the order of the payee, which action shall convert the warrant, or demand, to a bona fide check.
>
> * * *
>
> Section 2-185 prescribes that "all demands against the city shall, before being paid, be presented to and approved by the proper officer." (Oxnard Codified Ord., ch. 2, § 2-185 subd. (A).) It also provides guidance regarding instances where no appropriation has been made for demand and sets forth the procedures for obtaining approval of such demands.
>
> * * *
>
> City Council Resolution No. 10,820 sets forth the administrative duties of the City Treasurer, which include:
>
> - Paying the legal obligations of the City and serving as the treasurer for a number of entities as designated by the City Council. . . .
>
> - . . . the processing of City payroll checks and accounts payable.
>
> * * *
>
> **The next level of audit and approval would be done by** the "controller or designee" **and the City Treasurer prior to "check printing.**" (Emphasis added.)

b. Witnesses Statements

In order to set the proper context for this allegation, the summaries begin with the PW Director, who initiated the complaint on the Public Works Department's behalf. Thereafter, the summaries are provided in alphabetical order by the witness' last name.

(1) PW Director

The PW Director provided the following description of her complaint regarding Mr. Molina's review of check requests and holding checks:

> . . . It's Phil has decided, and I have the emails, but he doesn't like that the City budgets by fund, he believes that it should be by line item so he holds checks and

> refuses to make payments because he wants to see the line item adjusted, so in the past, my staff were running around making budget adjustments because he was telling them you don't have money in this line item so I'm not going to sign this check, but they were spending a lot of time doing that, so finally the CFO told him because he was holding a check for almost a million dollars to a contractor and the contractor was getting mad, which I don't blame him, and Kevin told him that the City Council has already determined how we budget which is by fund. You don't get to change that, you need to sign the check. So he puts holds on checks because he doesn't agree with how the City budgets, and then we have, this does real harm to the City in that when we go out to bid, we already don't get a normal amount of bids for various construction projects. We might get one or two bids on a project where other places I would see eight or ten bidders. Part of it is, and I think our bids come in higher than they should a lot of the times because contractors are figuring in this no interest loan or this delay in getting paid, it hurts us. Because the more bidders we have interested in bidding in our projects, the better the prices. So this is a game, and then, in this recent incident, the contractor was upset and wanted to come in and pick-up their check because it was so late and then he was like "we don't do that, we don't like people picking up checks, blah, blah, blah" and then [the CFO], had to intercede again and said "this is fine, we're going to do it." Because what we had heard was that this contractor basically had to send people home because he couldn't pay his bills, so [the CFO] had to step in. So this was a real impact and it just doesn't make sense. It almost feels like he just likes to flex muscle, but it harms the City.

Thus, the PW Director is bothered by the level of analysis that Mr. Molina uses and that he will hold checks if he is believes that a budget adjustment is required.

(2) Asst. City Treasurer

Although the Asst. City Treasurer did not address whether Mr. Molina is authorized to inspect the funding and supporting documentation for check requests, she did indicate that it was not necessary for Mr. Molina to perform such an audit as "I think there is enough checks and balances before the check is released." She also stated that, in her experience, no other treasurer had performed such an audit in the City. When asked if she nevertheless thought that Mr. Molina should be permitted to perform this level of audit, the Asst. City Treasurer responded "no, because I believe the City has enough safety measures."

(3) Finance Department Employee #2

Finance Department Employee #2 ("FDE #2) is responsible for supervising the entire Accounts Payable division within the Finance Department. She confirmed that, before providing Mr. Molina with a list of payables, her group will verify approval, the accounts, the authorized signatures, and the amount. She further explained the level of review that her group performs and stated:

> We verify the account, just make sure it's, you know, that they are in charge of something for supplies that they are charging the supply and not a service

> account. Or if it's service, make sure it's service account. Or sometimes like if it's training, we make sure that they like travel, that they're charging the right account.
>
> Because it happens. Sometimes they just want to use the line item that has money. So we correct it. We notify them of any corrections that need to be made. Make sure that the person signing off on the payment is an authorized signer.
>
> And also just the amounts. We verify the amounts, make sure it's to the right vendor. Because sometimes with the system, they'll just put you know, they'll sometimes enter in the wrong vendor number.

FDE #2 clarified that the review of the line level would be to ensure that the amount was being charged to the proper account and not necessarily to determine if there were sufficient funds in a particular line item. She viewed this as outside the Accounts Payable division's responsibilities.

(4) TOE #8

TOE #8 confirmed that, before Mr. Molina took office, she was unaware of any treasurer who performed an independent review of the check requests from Accounts Payable. TOE #8 indicated that Mr. Molina never cited to her any specific authority allowing him to perform this review.

(5) Phillip Molina

Mr. Molina confirmed that he performs a regular review of check requests from Accounts Payable. He explained that he does so "to make sure that there's a budget and that there's – okay, that there is a budget, that there's sufficient balance in the budget, and that there's been proper departmental approval for disbursement of that check." He further detailed the level of review, and said:

> Well, if the line item is exceeded, then we look to see if it has a project approval. And if it has approval at a project level, then we identify in that project level, is there sufficient remaining balance within that project to cover that invoice and, if so, then we approve it.

(6) FDE #4

Finance Department Employee #4 ("FDE #4") confirmed that, as part of his assigned duties in the Accounts Payable division, he meets with Mr. Molina on a weekly basis for about forty-five minutes to provide Mr. Molina with additional information pertaining to specific check requests that Mr. Molina identifies. FDE #4 indicated that he finds nothing inappropriate about Mr. Molina requesting these weekly meetings to review a portion of the check requests. He confirmed that he has no issues with Mr. Molina or the review.

FDE #4 stated that he has never seen anything in writing that specifies the level of review that is to be used by the City Treasurer regarding check requests.

FDE #4 stated that he finds nothing unusual about Mr. Molina electing to perform this review before simply signing the checks.

(7) PWE #1

Public Works Employee #1 ("PWE #1"), who specifically handles payables for the Public Works Department, confirmed that Mr. Molina does hold check requests from her department. She described it as follows:

> And then the only other time I actually deal directly is when he holds a check. Because when there's held checks, he goes through the payables with the AP staff and then AP staff emails the departments or divisions when there's held checks, whoever issued it for payment, so I get notified when there's a held check so since I do the payables, I have to make a response to why there isn't funding in the line item which is why he usually holds it because he doesn't see funding, so I respond because I do accounts payable as to, because I know if there's money or not money or if there needs to be a budget appropriation to put money in the line, if that's all that needed. It just depends, there's different reasons why.

PWE #1 indicated that, to preemptively address this issue, she simply began initiating line item adjustments immediately if she determined that a particular line item lacked sufficient funds. She confirmed that, as a result of these preemptive actions, there has been a noticeable reduction in the number of checks that Mr. Molina holds relating to the Public Works Department.

She also confirmed that Mr. Molina's decision to hold checks has not resulted in any financial penalty for the City.

Finally, PWE #1 confessed that she does not know whether Mr. Molina's authority includes the right to perform these reviews and to hold checks.

3. Analysis

There is no dispute that Mr. Molina, on a weekly basis, reviews the check requests from Accounts Payable, including requests originating in the Public Works Department. There is no dispute that he looks at the funding on a line item basis to ensure that there is sufficient funds to cover the expense. There is no dispute that he also reviews other supporting documentation to ensure that it is there and properly signed. Finally, it is undisputed that he will hold a check if either the funding or supporting documentation is lacking in his view. Thus, the sole question to be answered is whether he is authorized as the City Treasurer to do that.

The short answer is yes. This is a result of both the duties of the positions as outlined by the two documents identified above, as well as the undisputed fact that he has and continues to be permitted to perform this review on a weekly basis.

As to the documents, then-Assistant City Attorney's memorandum specifies that Mr. Molina is to pay out of money on properly signed warrants (Gov't Code § 41003), which can be interpreted to include properly funded warrants as the City's practice has been and continues to be that he can hold checks under these circumstances. (See Exhibit C.)

Additionally, Liebert, Cassidy's June 28, 2017 letter to then-Chief Financial Officer, the HR Director, and the City Attorney specifies that the City Treasurer performs an audit and provides approval before the checks are printed. (See Exhibit D.)

Thus, Mr. Molina is performing a review that is within his authority as outlined by Liebert, Cassidy's letter and that the City has permitted as a matter of practice since he took office.

Moreover, although the Adopted Budget Book and the Fiscal Year 2018-2019 CAFR both address a department head's authority to transfer appropriations between programs within the same fund, as long as funding is available in the department as a whole, those documents nevertheless do not relieve the department head of the obligation to perform that reapportionment before requesting a check. Thus, to the extent that Mr. Molina is requiring that these allocations at least receive City Manager approval before he will release a check, this requirement does not violate the language of either document. Furthermore, since the City has allowed Mr. Molina to exercise this power since he took office and began performing these reviews, the City has authorized him to exercise this discretion as a matter of practice.

F. Did Mr. Molina engage in "keyboard warfare" by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Finance Department's expense?

1. Finding

By a preponderance of the evidence, the Investigator finds that Mr. Molina engaged in "keyboard warfare" by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Finance Department's expense.

This allegation is substantiated.

2. Facts

a. Documents

In support of the allegation that Mr. Molina used misleading emails that were blind copied to various individuals, including members of the public, the Investigator was provided with multiple examples by various witnesses. Therefore, the Investigator makes reference to Exhibits F, G, H, I, J, L, P, Q, R, S, T, W, X, Y, and Z in support of this claim. In order to more specifically address these allegations with particularly persuasive examples, particular attention is drawn to the following documents:

(1) City's Personnel Rules and Regulations

The City's Personnel Rules and Regulations, Chapter 3, Section 3.10 – Anti-Bullying Policy reads, in pertinent part, as follows:

> 3.10 ANTI-BULLYING POLICY
>
> . . . the City also prohibits any form of "intimidating or bullying" in the workplace or elsewhere, such as at offsite events or work places.
>
> 3.10.1 POLICY COVERAGE
>
> . . . Bullying is the use of aggression with the intention of harming another individual. It can include any intentional written, visual, verbal, or physical act, when the act physically harms the individual or damages his or her property; has the effect of interfering with an employee's ability to work; is severe or pervasive; and creates an intimidating or threatening event.
>
> Bullying comes in many shapes and sizes and can take many forms including, but not limited to . . . abusive comments, . . . spreading rumors . . . . Such conduct can also occur via use of electronic or telephonic communications such as the internet, email and chatroom misuse, mobile threats by test messaging or calls, or misuse of cameras and video equipment. (See Exhibit E, Chapter 3, Section 3.10 – Anti-Bullying Policy.)

(2) Exhibit J

Exhibit J is made up of a string of emails provided by Asst. COP #1 that relate to Mr. Molina divulging attorney-client privileged communications to the public. Although these particular emails and the underlying subject do not relate to the Finance Department, the situation is nevertheless relevant and illustrative as the emails show Mr. Molina engaging in the type of conduct relative to emails as alleged by the Public Works Department. The emails show Mr. Molina requesting and receiving advice from the City Attorney's Office regarding an issue facing his department. The emails also show Mr. Molina then taking portions of those privileged communications and making them public. In fact, Mr. Molina engages in a back and forth with a member of the public, who identifies herself as an attorney, regarding the propriety of his actions.

(3) Exhibit P

Exhibit P is an exchange between Mr. Molina and the HR Director, regarding Voya, a new third-party provider for retirement programs, which was selected following cooperative discussions between the City and various unions. This particular issue does not directly involve the Finance Department, but it is again relevant and illustrative as the emails show Mr. Molina's practice of blind copying various individuals, including members of the public and media. The first two pages of the exhibit show a list of well over one hundred individuals that were blind copied on the emails that Mr. Molina was exchanging with the HR Director.

(4) Exhibit R

Exhibit R includes an exchange between Mr. Molina and a sitting councilmember. In Mr. Molina's first email, he writes "I've been told you are ordered to not communicate with me and I regret that you have been drawn into this." In response to this claim, the councilmember wrote:

> I was NEVER TOLD not to communicate with you, I hope you verify the information you claim to have. Again I was never told not to communicate with the City Treasurer for the City of Oxnard, Mr. Phillip Molina, in the past, present, or future. It did not happen[.] I did ask why your email was cut off and I feel it would be in your best interest to explain that yourself.
>
> Phillip I request you share this with all those you sent your claimed information out to as it implies things IN MY SPECIFIC CASE that are not true; the use of words is a skill that can inform or confuse, innuendo is not a tool to inform and only casts doubt on the supplier of such.
>
> I have cc['d] parties I feel need my statement, avoided a Brown Act issue by including on two other Council members and for anyone requesting a copy I have included the elected Oxnard City Clerk as she would not need to request this information as it will be in her [possession].

The document shows Mr. Molina misrepresenting facts to support his position. However, in this case, his efforts to mislead were called out by the councilmember who not only confronted Mr. Molina regarding his misinformation, but recommended that he correct his error by circulating the correct information to everyone he had sent the initial email.

(5) Exhibit T

Exhibit T again illustrates Mr. Molina's inclusion of more than two hundred individuals as blind copies on this email.

(6) Exhibit W

Exhibit W involves the Public Works Department and mirrors the same issues illustrated in the earlier identified documents. For example, in his communication with the PW Director at the end of this email string, Mr. Molina voices his disagreement with her assessment of the situation. However, he chose to blind copy this portion of the exchange to one hundred sixty-six people.

(7) Exhibit X

This is a December 20, 2017 memorandum from then-Assistant City Manager, to Department Directors. In that memorandum, then-Assistant City Manager wrote, in part:

> . . . Mass e-mails shall only be sent to recipients reasonably necessary to consider the information being communicated. The List shall only be used to communicate matters of considerable importance to the City as determined by the

> City Manager or his or her designee(s). Only the City Manager or his or her designee(s) may use the List to send mass e-mails.
>
> * * *
>
> . . . As such only the following employees are designated to use the "all" email list in conformance with this policy: City Manager; Assistant City Managers; Media & Community Relations Manager; Police Chief and Assistant Police Chiefs; Fire Chief and Assistant Fire Chiefs; Human Relations Director and the Information Technology Director.

All of the examples specifically discussed above post-date this memorandum.

(8) Exhibit Y

This is a memorandum dated November 2, 2017 from the City Attorney, to Mr. Molina addressing the "City Policy and Ralph M. Brown Act re Use of City Email System." The City Attorney wrote, "your use of the email system for such mass mailings may have violated the Brown Act and, therefore, the City's policy on the use of technology and devices."

This demonstrates Mr. Molina's historic practice of mass emailing and violation of City policy on the use of email.

(9) Exhibit Z

On December 4, 2018, Mr. Molina was issued a Letter of Reprimand "for your repeated improper use of the City of Oxnard e-mail system and release of confidential information to the public." In support of this conclusion, the City Manager wrote, in pertinent part:

> Prior to October of 2017, you used your City e-mail account to send out a variety of e-mails to every City employee using the all@oxnard.org e-mail list. You also forwarded confidential and privileged e-mails sent by the City Attorney's office to a list of outside recipients without authorization from the City Council.
>
> On October 4, 2017, you were informed by the Oxnard City Attorney [ ] that your use of the Oxnard e-mail system in this manner violated Oxnard Personnel Rules 18.4.2 as well as the attorney-client privilege.
>
> * * *
>
> Despite [the City Attorney's] discussions with you on October 4, 2017 and his November 2, 2017 memorandum to you and the implementation of Administrative Policy number 18.4.6, you continue to send out mass e-mails, using your official Oxnard e-mail account, through the use of either copying (cc) or blind copying (bcc) dozens or hundreds of individuals, including the general public, City of Oxnard employees, or outside attorneys.
>
> * * *

In sum, these e-mails sent by you from your City e-mail account between November 5 and November 20, 2018, in which you either copied or blind copied a large list of e-mail recipients, continue to violate Oxnard Personnel Rules 18.1.2 and 18.4.2 and are inappropriate mass e-mails. These e-mails also appear to attempt to convey, in the face of all evidence, that you are the only person within the City of Oxnard who is guarding the public coffers, and imply that you alone have the best interests of Oxnard in mind. Finally, these e-mails reflect a lack of professionalism and good judgment on your part given that you use your official position and City resources to publicize mostly your opinions.

* * *

Your continued use of the City's e-mail system to copy dozens of individuals serves no official purpose and appears designed to undermine the City and its officials, misleads the public and creates a negative perception of the City organization.

You are ordered to immediately do the following:

1. Cease using your City e-mail account to divulge confidential City information with the public by either copying or blind copying individuals who are not entitled to this confidential information.

2. Remove your signature block footer from your official City E-mails in which you admit to releasing confidential information and express your personal disagreement with the City's confidentiality policy.

3. Cease using your City e-mail account to send out mass mailings.

b. Witnesses Statements

Nineteen individuals interviewed consistently stated that Mr. Molina sends out multiple emails daily that typically involve his communications with other departments and do not relate to their work assignments. They confirmed that they are typically blind copied on these emails. These witnesses are FDE #1, Asst. City Treasurer, Asst. COP #1, the Purchasing Manager, the IT Director, the PW Director, TOE #6, Asst. City Manager, TOE #8, the CCS Director, the Deputy CM, the Treasury Supervisor, TOE #10, TOE #12, the PD Commander, Asst. COP #2, the Asst. CFO, the Controller, and Auditor. No one interviewed denied that Mr. Molina engages in the alleged conduct. Since Mr. Molina declined to appear for a second interview, the Investigator was unable to ask him for his position relating to this allegation.

In order to set the proper context for this allegation, the summaries begin with the Asst. CFO, who initiated the complaint on the Finance Department's behalf. Thereafter, the summaries are provided in alphabetical order by the witness' last name. The summaries do not include all nineteen identified witnesses. Instead, for the sake of efficiency and brevity, the summaries relates to specific individuals who provided particularly illustrative examples.

(1) Asst. CFO

The Asst. CFO also spoke of Mr. Molina's practice of publicizing sensitive information in an effort to enhance his own image while negatively impacting the City's image. In this regard, the Asst. CFO explained the negative impact that Mr. Molina's actions had:

> We already have a trust issue in this City with our citizens given all of the decades long mismanagement that has happened and we're really working hard to rebuild that trust and get the credibility and he's really undermining that with this kind of stuff.

To bolster her statement, the Asst. CFO shared an example involving emails that Mr. Molina sent out after the City drew down on a bond account. The Asst. CFO explained that, when a bond is approved, the associated money is placed in a separate account so that it is not comingled with the City's other funds. As the associated work is performed, the City will pay the amounts due from its own bank account and then will draw down from the specific bond account in order to repay the money that was advanced. These drawdowns simply reimburse the City for the funds that were already spent on the associated improvement. The Asst. CFO emphasized that this is not new money.

Not long after the Asst. CFO joined the City in early 2019, she became aware of a bond account that had not been drawn down for quite some time. She discovered that approximately $5.6 million in reimbursements were owed from this bond account. While all of this money still belongs to the City, from an accounting standpoint, it is proper to draw down from the bond account and to move the money into the account from which the original services were paid. This is akin to taking money from the right pocket and putting it into the left. In advance of this particular draw down, the Finance Department advised Mr. Molina that he would be receiving a large reimbursement.

The Asst. CFO explained that this was all taking place during or shortly after the City faced serious financial issues that resulted in the loss of multiple jobs. When Mr. Molina was advised of this reimbursement, he accused the Finance Department of theft and claimed that this was "new" money that could have been used to save jobs. Mr. Molina so advised the unions through emails, which resulted in the unions taking out an ad in a local paper accusing the City of impropriety. The Asst. CFO explained that Mr. Molina did all this despite the fact that she and her staff explained to him multiple times that this was not "new" money, but merely constituted a reimbursement of funds that were already expended for their approved purpose.

After providing the above example, the Asst. CFO provided the following description of Mr. Molina's use of emails:

> Well, I mean, you know, if we look at the emails beyond this bond issue, it—there's so many things. He just nitpicks, right? And he tries to correct—like this one, where I made a statement in a City Council meeting and I referred to fund balance for an enterprise fund and he feels that I should have said "retained earnings." Well, you know, okay but I was speaking generically to non-accountants who understand fund balance better, right? But he has to send an

email to correct me. It's just—and when he does it, he copies a bunch of people. It's not just like to me and saying "Okay, well you should've said retained earnings." Well, okay. It's ridiculous. Here's another example where he—on a wire transfer, asked me about which fiscal year this item belonged to. I followed up, I responded, I confirmed it's related to fiscal year '19-'20. He doesn't accept it. He comes back "Really?? Okay, well blah, blah, blah, blah, blah. How could this be?" It doesn't make sense to you, then I have to go back again and say "Yes, I have confirmed that it relates to fiscal year '19-'20." And that's—like why do I have to keep proving things? It's just—"it's my job to make sure things are accounted for in the right fiscal year. Not yours. You asked me the question. I responded. Leave it at that." But he can't. This one he's questioning how we're accounting for a particular interest payments. Oh, this was a great one. I love this one. So, the Treasurer's Office received a payment for $5,000 related to a civil fine or something and they needed an account to record it against. They sent the email to me, first of all, which is odd because typically it doesn't need to come to my level for something like that. That could go to our accountant who's responsible for recording revenues and receivables. It could've gone to the Controller. But for whatever reason, they submitted it to me directly. So, I forwarded it to my Controller and to the Finance Manager in the Police Department because it was related to a police fine, so say "What account do you guys want this booked to? Because I don't need to get into that level of detail and you know, like defining or identifying what account it is." So, I copied the person in Treasurer's Office who asked the question that I said "Okay, can you please let Treasurer know what the appropriate account string is?" So, I don't think I copied Phil on this. I wouldn't have normally, but anyway, so he gets to Phil and he sends me an email and he copies his staff, he copies the Police Finance Manager, and he says "Let me know if you want to talk about the proper fund and account to post the entry. I have some texts on the subject." Meaning like textbooks. Like, "I don't—I'm a CPA. I know how to account for things. I don't need your textbooks. I don't need you to tell me. This is just a matter of having the appropriate people who are close to the transaction identify which account—which specific line item it should go to. That's all it is." But no. He has to send an email like that completely insulting me. And he gets this one—I can't remember what this was about. Oh, we had a billing issue with our—one of our utilities with one of our customers, and I was helping because—because he was questioning what the water fund—Water Department had calculated as being due to us by this customer, and he questioned it so Head of Public Works pulled me in to be the arbitrator of getting these numbers reconciled because, quite honestly, nobody wants to deal with him. Okay, so I said "Fine. I'll look at it. Blah, blah, blah." But I was really busy that day and I said "I won't be able to look at this today. I'll get to it tomorrow. Is there an urgency? Does this need to get resolved right away?" And the Water Department said "No, no, no. It's fine. It can wait a couple days." And the City Attorney was involved as well. And so we responded that—or [the City Manager], I think, sent him an email saying "No, Finance is going to look into it." And then he says "Let me know when Finance staff wants to meet with Treasurer staff so we can educate them." Okay? Then he sends out

> this email—again, I'm pretty sure this got copied to a bunch of people. "Here is more money for the general fund. Stop allocating interest earnings to any of the RDA successor agency funds." So, again, he assumed that this was happening. He sends out this email. We go ahead and look into it and sure enough, there is no interest income being allocated to the successor agency funds. And then, yeah. It's just—it's just again, it's like "You don't need to send out emails like this. Just ask us the question first and let us confirm first before you just make it seem like 'oh, we found more money.'" I think he's trying to, you know, make himself look like the savior for the City. Anyway, so that was that one. And these were all related to the [unintelligible]. So those are a sampling of things. Again, I didn't—I don't save all my emails. There was a—not that long ago, I sent an email to [the CFO] and the Deputy City Manager, to give them an idea of the amount of distractions that we deal with from Mr. Molina. I went through and I looked at my inbox for like just a two-week—the most recent two-week period and I had 58 emails from him. Now, if you remember, too, at the beginning of our conversation, there really isn't necessarily a need for us to have a daily interaction in our roles. But in two weeks I had 58 emails that I had to address or respond to or do something with. And I would venture to guess that a good majority of them unrelated to his specific role as Treasurer. It's, you know, him looking into things that are outside his scope. (See also Exhibit G.)

(2) Asst. COP #1

As noted earlier in this Report, Asst. COP #1 provided a written statement regarding the issue related to the Dallas Cowboys' Training Camp. In that same written statement, Asst. COP #1 addressed Mr. Molina's practice related to emails and wrote:

> Historically, he has demonstrated that he will have a one-on-one conversation with someone, and following their encounter, will send [an] email to a wide distribution of "bcc'ed" persons, recapping their contact on his terms and from his side of the story. These emails are typically cast with a negative slant toward others, and are often self-aggrandizing. . . . His emails are known for mischaracterizing matters, accusing staff, questioning integrity and character of staff, or grandstanding. His emails are often patronizing and condescending.

Additionally, following his interview, Asst. COP #1 provided the Investigator with a copy of a binder that he indicated related to Mr. Molina. In that binder, Asst. COP #1 included a string of emails related to Mr. Molina divulging attorney-client privileged communications to the public. The emails show Mr. Molina requesting and receiving advice from the City Attorney's Office regarding an issue facing his department. The emails also show Mr. Molina then taking portions of those privileged communications and making them public.

Asst. COP #1 described Mr. Molina's email practice as a huge strain on time at the City. In this regard he said:

> It is exponentially disproportionate. I would put that in quotes. Like, I could qualify that a little bit further. In terms of that, prior to him, assuming his office

> as the treasurer, we spent very little time as I mentioned and so now, not only was I getting several bcc emails a day, and I would read through them to see where are we going with this, does this have anything to do with me? Does it have anything to do with the police department? You know, and you find out when you and find out when you get through the string that it has nothing to do with anything to do with the police department, that takes time. Multiply that times all the line staff that, at the police department, that were receiving emails as well, because I know people at the line-level still, you know, and I talk to them and they're like "hey, who is this Phil Molina guy?" The people who really didn't know who he was, "why am I getting all these emails from him?" People were telling me that they were seeing all these odd emails that were popping up. They were getting any from once a day to several times a day. And so, that's taking their time, not just mine. So now this is multiplied by a factor of nearly 400 employees at least in the police department who are potentially getting these. The materials he sent, you know, like I said, had nothing to do with police operations. They were often times either I would call, like some kind of squabble between him and either the City Attorney, the City Manager, the IT Director, those were three people he was particularly very back and forth with. I would say quite nasty with them. A variety of topics, especially the City Manager, the City Attorney. He included some emails of discussions that he had with the mayor, so anyway. Seeing those things happening did take a lot more time. And so, at some point, you make a decision whether or not you're going to continue to read them or you're going to just start deleting them, and so what I saw happening was, in my opinion, was a gross abuse of the City's resources and colossal impact on staff time. Add to that, there were a few occasions where I did respond to him, so the time to go back and forth with him on a particular issue takes time, and these are usually over things that I was questioning why he was he doing.
>
> And also, it took me a little bit of time than it would for any other email because I'm realizing that I'm writing something to an elected official that I need to make sure that the email response is professional, it's articulate and prepared to be put in front of the potential bcc audience, for example if we go back, we'll probably get to this later, but the July 30th incident that happened with him and some City staff here, it literally took up a significant portion of my Thursday, Friday and part of my weekend just dealing with his emails and dealing with the collateral damage that was taking place because of that, so it's unreal. It's unreal, inappropriate and unnecessary I think are ways that I feel that what our, not just myself, but other employees and staff members and City employees had to deal with.

In terms of Mr. Molina's misrepresentations, Asst. COP #1 indicated that Mr. Molina will remove portions of email strings in order to make the communication support his position. In this regard, Asst. COP #1 pointed to his back and forth with Mr. Molina regarding CMO Employee #1 and Mr. Molina's apology email. Asst. COP #1 indicated that portions of his responses were edited in the versions that Mr. Molina shared with the public.

(3) Purchasing Manager

Like the PW Director, the Purchasing Manager indicated that she had also been warned not to respond to Mr. Molina's emails. She specifically said:

> I was directed by the previous CFO and Assistant City Manager to never, ever reply to him again. Because he threw me under the bus so many times. And had blind copied all his constituents. And his, he was antagonistic in his emails.

(4) IT Director

The IT Director described a particular incident when Mr. Molina publicized highly confidential information regarding a potential breach of the City's on-line payment system, which could have resulted in additional breaches. He said:

> So, very adversarial relationship in general with Mr. Molina. As I mentioned before his actions are ones that show he's attempting to make staff look bad, however and whenever he can. He does this under the guise of trying to say he's an advocate for the people that elected him. But while at the same time he's jeopardizing the people that elected him who are our residents. And so one example in, oh back in the middle of 2018, we had a scenario where our ERP System clicked the GOV online payment system was breached, or potentially breached. Something that we later found out had happened to a dozen cities across the nation. It was due to some code that the company used that wasn't kept up to date and some network settings that allowed hackers to exploit a known vulnerability in some web logic software that a company uses for online payments. The, Mr. Molina found out about that and there are exceptions in the Public Records Act that allow cities to not release information publically when it exposes a vulnerability about a system that could cause attacks. Could cause your systems harm. Mr. Molina clearly violated that by taking information about this, at that point supposed hack, and publically emailing it to people, letting people know that there are vulnerabilities in our system. Something you definitely don't want to do before you allow the vendor and us internally to take action to protect ourselves from further attacks. I met with Mr. Molina sometime middle of '18, probably in May, and explained in confidence to him how the system technically worked. Where the company thought the vulnerabilities were in the system. I drew it on his whiteboard, network diagram, servers, software names, ports, and explained how traffic flowed from the internet with payments into our network, into the systems, where the known vulnerability was from the web logic software, and back out again. Explained to him that this is highly confidential and dangerous if you share this information with anyone before Superian Sun Guard HTE has a chance to fix this problem, along with our help from our network engineers locally. And when I left his office I erased his whiteboard with all this information, I told him it was confidential, and when I get back to my office later that day, I got an email from Mr. Molina, basically he had retraced the network diagram everything I wrote on his board, off the ghosted images of the dry erase markers. So you could still see the images there even though they had been

> erased. He retraced all of those, took a picture of it, emailed it to me, and said something like, yeah I can't get this image off my whiteboard, can you buy me a new whiteboard? I replied, tried to keep it light and said jokingly, ha ha, this is confidential, please do not share this information with anyone. So he ;proceeded to take that same image and forward it to a group of people via email, letting them know that this is what he had learned from me, in person.

Ironically, the IT Director stated that he discovered that Mr. Molina divulged this information because he was included on the email.

In describing Mr. Molina's general email practice, the IT Director said, "Mr. Molina's demeanor has been, I've got to make myself look good, and all the rest of staff look bad."

(5) PW Director

When raising the issue of Mr. Molina's use of the e-mail system, the PW Director stated:

> It almost feels like he just likes to flex muscle, but it harms the City. And if there is an error on billing or something comes up, if he could find something, he'll blast it out. You know he'll make it look like "I've done this wonderful thing and found this error and saved the City," but he's got a blind copy list of a whole lot of people, so you never know the other thing. He sends you an email and he's copying all kind of people, you don't even know who he's copying. And a lot of times, my understanding is that these would be people in the community who are his supporters, so he has the opportunity to paint the City in whatever light he wants and we don't even know who he's included in this email.

In order to place the magnitude of this issue in context, the PW Director explained:

> I was warned by the City Attorney's Office that just know that he blind copies folks so be careful, just know you don't know who the recipients if you hit "reply all." And so there's a feeling that sometimes he's baiting you to an argument that can play out publicly.

To support the claim that Mr. Molina baits individuals into arguments, the PW Director provided the Investigator with a sampling of emails that illustrated the point. (See Exhibit K.)

In short, the PW Director complained that Mr. Molina uses his emails, including his blind copying, as a tool to achieve his agenda.

(6) Deputy CM

Similar to other individuals, the Deputy CM also provided specific examples to illustrate Mr. Molina's email practice. She provided the following description of Mr. Molina providing false or misleading information:

> So another example is he communicated wrongly, so—and he knows it's wrong—to one of our labor unions in the latest budget—we had a very contentious budget

> process. He communicated wrong information to one of our labor unions. Our labor union put out an ad that basically blamed our Finance Department for hiding money or stealing money or something along those lines. We can get you a copy of the ad. Now, that's on the union for putting out the wrong information, but they got it from him. And he knows it's wrong.

The Deputy CM also provided an example of Mr. Molina's publicizing of attorney-client privileged communications. She said:

> That's another—again, I'm off on tangents, but when I was at the City Attorney's Office and he still does this to the City Attorneys, there were multiple times when we said to him "You cannot—this is attorney-client privileged information. You cannot disseminate this information." And he sends it out anyway. So, you know, which is—as you know, as an attorney—incredibly dangerous to send out information. He would send out—we would provide a legal analysis to him, he would request, you know, "Can I do this? Can I do that?"—whatever it is, we would provide the response to him and then he would send that out to many people by email and that left us, as attorneys, and it still leaves them in the City Attorney's Office—you can talk to [the City Attorney] about this—it's in this weird quandary of "Well, do we not advise our own staff then?" We've got a whole Department that we can't provide legal advice to because they don't keep that information confidential. But then you've got the potential for real problems here.

(7) Asst. COP #2

Like several other witnesses, Asst. COP #2 also provided an example of Mr. Molina publicizing highly confidential information as a result of this email practice. Specifically, Asst. COP #2 identified an April 10, 2010 Confidential Memo from then-Police Commander that "detailed information about the security procedures used in the Oxnard City Treasurer's Office to safeguard employees and funds." (See Exhibit L.) Asst. COP #2 stated that a copy of this document was provided to Mr. Molina after he began his tenure as the City Treasurer. He explained that Mr. Molina was concerned about the security at the City Treasurer's Office and asked if the Police Department could perform an assessment. Mr. Molina was provided with a copy of the 2010 memorandum in response to this request. Asst. COP #2 said that, after received a copy of the memorandum and despite the fact that it is stamped "CONFIDENTIAL (*NOT FOR PUBLIC RELEASE*)", Mr. Molina nevertheless attached the document to one of his emails and sent it to multiple individuals, including members of the public. Specifically, Asst. COP #2 stated, "this is law enforcement sensitive information and he sent it out to everybody."

(8) Controller

The Controller confirmed Mr. Molina's practice of providing inaccurate or misleading information in his emails. She said:

> There was some time ago, there was communication on a successor agency. And he was communicating faulty, falsely information that we had, you know, several

> millions of dollars. We hadn't reconciled it. And we had. So he's always, the majority of his emails are faulty information. And very mistrust, leaves, leaves the community, I would think, when the public is on there to very distrust the City, yea.

(9) Auditor

The Auditor confirmed Asst. CFO's example regarding the $5.6 million draw down and the damage that Mr. Molina's subsequent email caused. He specifically stated:

> He basically, he sent out an email and he cc'd a number of people on it and we don't know how many people he blind cc'd, but he had a history in the past of blind cc'ing people up to 100 of his constituents, I'm not sure exactly, at least that's what I've been told by various people. But he said that what we were doing is illegal, not only were we accounting for things inappropriately, what we're doing is illegal and what we're doing is illegal, essentially. Now shortly after that, now there was only a few people that knew about the requisition up till this point, it was me, [a former CFO], the Asst. CFO, maybe some other people in finance department, and Phil Molina. Then all of sudden, the next thing we know there's a big humongous, and I think he told [a councilmember]. Well, the people he cc'd on this, using this email, and whoever he blind cc'd, we don't know. But he specifically, the next day, the next day or so, in the newspaper in Ventura County Star, there's a full page article saying that the City just found, the finance department, just found $5.6 million in new money, and this was put out I believe by SEIU, the Union and this could be used to save jobs and as result, and it says "What other things is the City hiding?"

The Auditor provided another example of Mr. Molina's circulation of misinformation through his emails. The following exchange took place:

> AUDITOR: Yeah, to me this fits into a large picture, in my mind, it's my opinion, of him trying to be a hero for the City. So the successor agency is also, this is something that's not part of that big pie, it has its own separate bank account, the City's winding it down, we have fiduciary responsibility, it succeeded the former RDA that was dissolved per Governor Brown back in 2012. And there's this question why does the successor have such money, he shouldn't have this much money, in which case our consultant, . . .and she came to show, this is what makes up all this money, a lot of it is because we requested more than we ended up spending, and subsequent request, our allocation would be reduced. She showed what makes up all of that money, it's about $10 million. It should only be about, whatever, like six months' worth. So she went into that and it was a big dispute and then he said "oh, she's not an auditor, she's just a consultant." And so there's this back and forth and it's been ongoing since before I got here. That's in one case and so he's basically saying, somewhere we're not accounting for it correctly.

LUNA: Well, just to make sure I understand. As the City Treasurer, do you not believe it to be within his scope of work, his job duties to look into the successor agency, or what is it that you think is inappropriate in terms of his . . .again, I'm trying to distinguish between an individual perhaps having a different opinion on how to account for something or you know, the methodology used or what have you, versus doing something that, for example, the last thing we discussed. The email takes it a step beyond. You're no longer just expressing a different opinion, you are now announcing it publically and making an accusation that you cannot substantiate that is, you know, critical of people who have not done anything wrong. Is there something related to this successor agency that is similar to that, where you think he took it a step to far? You're no longer disagreeing or not understanding the methodology, you are now acting inappropriately.

AUDITOR: In that case, I mean I can't really find anything. In that case, it is within his scope to be able to look and "why is there so much money" what have you. So in that case, I guess no, I wouldn't say it's outside of his scope and it's certainly within, but I don't think anything we ever provided has ever been sufficient for him and so, it's like whatever, we can't do anything about that. There was an instance though where, as I said before, some of the things I submit, and in this case it was related to the successor agency, where the successor agency and as well as other debt payments that I've made and submitted to him and I've put on there, if you have any questions, feel free to contact me, and the next thing I know, the next morning, he's emailing the City Manager, the City Council, basically saying that the way we're requesting this to be posted is incorrect. And then on top of that, he excluded some of the information that I have provided from that, so I had to go back and reply and say "hey, this is what happened." Some of it is accounting stuff that most people is like "what does this mean and what does that mean?" so instead of coming and talking to me, instead of calling me and saying "hey, I have questions on this" he just immediately escalated it to City Manager and the City Councilmen and at that point, I had never even talked to him, never seen him face to face. I believe [then-Assistant Chief Financial Officer] was here at that time and so I was like "Oh my gosh, what the heck. It's going all the way up to the City Manager."

3. Analysis

As outlined above, all of the information provided to the Investigator concerning Mr. Molina's use of emails was consistent and demonstrated his practice of using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the expense of others. In fact, there was no information provided to counter this conclusion.[12] Given Mr. Molina's general practices, as well as Asst. CFO's specific complaints on the Finance Department's behalf, it is reasonable to conclude that Mr. Molina remained consistent with his general practice and engaged in "keyboard warfare" by using

[12] The Investigator was unable to specifically question Mr. Molina regarding this practice or the specific allegations involving the Public Works Department because Mr. Molina declined to meet with the Investigator for a second interview.

misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Finance Department's expense.

In engaging in such conduct, Mr. Molina violated the City's Personnel Rules and Regulations, Chapter 3, Section 3.10 – Anti-Bullying Policy.

As noted above, under this policy, the City prohibits any form of "intimidating or bullying" in the workplace or elsewhere. In this regard, bullying is defined as the use of aggression with the intention of harming another individual. It includes written materials that affect or interfere with an employee's ability to work; is severe or pervasive; and creates an intimidating or threatening event.

Bullying includes, but is not limited to abusive comments, name-calling sarcasm, spreading rumors, or teasing. Such conduct can also occur via use of electronic communications such as email. (See Exhibit E, Chapter 3, Section 3.10 – Anti-Bullying Policy.)

In this case, the various examples of and statements regarding Mr. Molina's use of email demonstrate a consistent pattern of intimidation wherein Mr. Molina would place employees is the unfavorable position of having to defend themselves to an unknown audience to whom Mr. Molina had provided misleading or occasionally false information. The witnesses consistently commented on the amount of time that they had to invest in addressing these emails, which necessarily took away from them performing their regular duties. They also uniformly indicated that such communications had a negative effect on the City's image in an environment where the public already distrusted the City because of prior actions. The witnesses stated that they would receive hundreds of emails a month from Mr. Molina that took this aggressive and accusatory tone, which establishes a pervasive pattern of behavior. The negative impact was so considerable that several individuals, such as the Purchasing Manager, were advised not to respond to Mr. Molina because he continued to portray them in a negative light.

G. Did Mr. Molina exceed the scope of his position as City Treasurer by engaging in a review of the accounts payable register of checks and holding checks, including checks requested by the Public Works Department, that he determined lacked sufficient funding or supporting documentation?

1. Finding

By a preponderance of the evidence, the Investigator finds that Mr. Molina did not exceed the scope of his position as City Treasurer by engaging in a review of the accounts payable register of checks and holding those checks, including checks requested by the Finance Department, that he determined lacked sufficient funding or supporting documentation.

This allegation is unsubstantiated.

2. Facts

a. Documents

(1) January 26, 2017 Memorandum re Duties of City Treasurer

On January 26, 2017, then-Assistant City Attorney, issued a memorandum to then-Assistant City Manager, regarding the Duties of the City Treasurer. (See Exhibit C.) That document reads, in pertinent part, as follows:

> Below is a listing of the Treasurer's chief statutory duties:
>
> * * *
>
> • Pay out of money on properly signed warrants (Gov't Code § 41003)
>
> * * *
>
> The main role of the Treasurer in disbursement of funds: "Funds belonging to a municipality may be withdrawn only in the manner prescribed by law and usually the city treasurer is only the custodian of the city funds." Draper v. Grant (1949) 91 Cal.App.2d 566, 570.
>
> * * *
>
> • The City Treasurer is required to pay written demands submitted and audited by the CFO (OCC § 2-184) [fn. 9]
>
> * * *
>
> [fn.] 9 Willful refusal to pay or transfer public moneys can constitute a crime under Penal Code §§ 424-426.

(2) June 28, 2017 Letter from Liebert Cassidy Whitmore

On June 28, 2017, Liebert Cassidy Whitmore sent a letter to then-Chief Financial Officer; the HR Director; and the City Attorney for the City, providing an analysis of the City's Accounts Payable Finance Procedure. That letter reads, in pertinent part, as follows:

> . . . the City Treasurer shall specify the purpose for which a warrant or check is drawn and the fund from which payment is to be made.
>
> * * *
>
> . . . all warrants must be signed by "legally designated persons," . . .
>
> * * *

> Section 2-168(B) provides that the "city treasurer shall also perform such administrative duties as assigned by the city manager."
>
> * * *
>
> Section 2-184 provides: . . .
>
> The city treasurer shall subscribe a direction to the depository of funds to pay the funds to the order of the payee, which action shall convert the warrant, or demand, to a bona fide check.
>
> * * *
>
> Section 2-185 prescribes that "all demands against the city shall, before being paid, be presented to and approved by the proper officer." (Oxnard Codified Ord., ch. 2, § 2-185 subd. (A).) It also provides guidance regarding instances where no appropriation has been made for demand and sets forth the procedures for obtaining approval of such demands.
>
> * * *
>
> City Council Resolution No. 10,820 sets forth the administrative duties of the City Treasurer, which include:
>
> - Paying the legal obligations of the City and serving as the treasurer for a number of entities as designated by the City Council. . . .
>
> - . . . the processing of City payroll checks and accounts payable.
>
> * * *
>
> **The next level of audit and approval would be done by** the "controller or designee" **and the City Treasurer prior to "check printing.**" (Emphasis added.)

b. Witnesses Statements

In order to set the proper context for this allegation, the summaries begin with the CFO and the Asst. CFO, who initiated the complaint on the Finance Department's behalf. Thereafter, the summaries are provided in alphabetical order by the witness' last name.

(1) CFO

The CFO summarized the Finance Department's complaint as follows:

> Phil has said many times that as the—as an elected official who's also a Department head, he feels he's the one elected official looking out for taxpayer and rate payer interests, so he has decided that the level of budgetary control at

> which the Finance Department checks to be sure there is sufficient funding, sufficient appropriations to pay a bill, is insufficient. He has unilaterally decided that there should be line item control over every payment that goes out.
>
> * * *
>
> But Phil feels that's not an adequate level of control, so he requires that the budget be adjusted—and that can be done administratively by the City Manager—so that each line item each week has enough to pay that week's bills.
>
> * * *
>
> We disagree because that's not the level of control the City Council has established. So we have a fundamental philosophical disagreement. But, getting to your opening remarks about the path of least resistance, in order to persuade the City Treasurer to release checks to vendors who have to be paid, the organization, including myself and the Finance Department, accommodates his demand that budget adjustments be made for 5, 10, 12 checks every week in order to prove to him that after the budget adjustments have been made, there's enough in that particular line item to cover the check being requested for payment.

The CFO conceded that Mr. Molina is requiring departments to abide by the line items budgets that they prepared, submitted and had the City Council approve. From the CFO's perspective, he finds it inappropriate for Mr. Molina to use this level of scrutiny with respect to the check requests.

(2) Asst. CFO

The Asst. CFO summarized the Finance Department's complaint as follows:

> The City code specifically spells out that the Finance Director is responsible for reviewing and approving our disbursements, but he doesn't care that that's what the City codes says.
>
> * * *
>
> And so that creates a lot of extra work for the Finance team and the departments to make sure that we do an administrative budget adjustment to move the money into the proper line items so that we can release the check, which then also means that we end up holding checks with, you know, to our vendors who are getting very upset with us that they are not getting paid timely.
>
> * * *
>
> But Mr. Molina insists that we have to manage the budget at line item level.
>
> * * *

> I mean it costs us more in staff time to do this adjustment, you know. Sometimes they're more, we've been working with him to try to get him to look at things at a higher level or you know let's look at a putting a threshold in place at least. The reality is he doesn't even have the authority to do this but he insists and **we've allowed it to happen**. (Emphasis added.)

Although the Asst. CFO insists that Mr. Molina is exceeding the scope of his position, she nevertheless acknowledged that he has occasionally properly held checks. She said:

> And then sometimes it's legitimate, so we can't—you know what I mean, I can't say like okay, if there's really no money in the budget or if there's not sufficient money in the department's budget they have to do—they have to go to the City Manager to get a, you know, a transfer budget or potentially if there's no money in the fund they have to go City Council to do that.
>
> * * *
>
> But you know like I said, there are occasions where he does find an exception where okay, we do need to actually do a budget adjustment that's legitimate and sometimes that can happen because of the timing of, you know, multiple items going against the same you know budget. So at the time that you checked to make sure the budget was available it was there, but then something else came in so you know we—there may still be situations where things like that happen. But I guess to me the point is that we've incurred a liability we have to deal with that and then afterwards we can look at the budget and say okay now we need to [adjust it].

(3) Asst. City Treasurer

Although the Asst. City Treasurer did not address whether Mr. Molina is authorized to inspect the funding and supporting documentation for check requests, she did indicate that it was not necessary for Mr. Molina to perform such an audit as "I think there is enough checks and balances before the check is released." She also stated that, in her experience, no other treasurer had performed such an audit in the City. When asked if she nevertheless thought that Mr. Molina should be permitted to perform this level of audit, the Asst. City Treasurer responded "no, because I believe the City has enough safety measures."

(4) FDE #2

FDE #2 is responsible for supervising the entire Accounts Payable division within the Finance Department. She confirmed that, before providing Mr. Molina with a list of payables, her group will verify approval, the accounts, the authorized signatures, and the amount. She further explained the level of review that her group performs and stated:

> We verify the account, just make sure it's, you know, that they are in charge of something for supplies that they are charging the supply and not a service account. Or if it's service, make sure it's service account. Or sometimes like if

> it's training, we make sure that they like travel, that they're charging the right account.
>
> Because it happens. Sometimes they just want to use the line item that has money. So we correct it. We notify them of any corrections that need to be made. Make sure that the person signing off on the payment is an authorized signer.
>
> And also just the amounts. We verify the amounts, make sure it's to the right vendor. Because sometimes with the system, they'll just put you know, they'll sometimes enter in the wrong vendor number.

FDE #2 clarified that the review of the line level would be to ensure that the amount was being charged to the proper account and not necessarily to determine if there were sufficient funds in a particular line item. She viewed this as outside the Accounts Payable division's responsibilities.

(5) TOE #8

TOE #8 confirmed that, before Mr. Molina took office, she was unaware of any treasurer who performed an independent review of the check requests from Accounts Payable. TOE #8 indicated that Mr. Molina never cited to her any specific authority allowing him to perform this review.

(6) Phillip Molina

Mr. Molina confirmed that he performs a regular review of check requests from Accounts Payable. He explained that he does so "to make sure that there's a budget and that there's – okay, that there is a budget, that there's sufficient balance in the budget, and that there's been proper departmental approval for disbursement of that check." He further detailed the level of review, and said:

> Well, if the line item is exceeded, then we look to see if it has a project approval. And if it has approval at a project level, then we identify in that project level, is there sufficient remaining balance within that project to cover that invoice and, if so, then we approve it.

(7) FDE #4

FDE #4 confirmed that, as part of his assigned duties in the Accounts Payable division, he meets with Mr. Molina on a weekly basis for about forty-five minutes to provide Mr. Molina with additional information pertaining to specific check requests that Mr. Molina identifies. FDE #4 indicated that he finds nothing inappropriate about Mr. Molina requesting these weekly meetings to review a portion of the check requests. He confirmed that he has no issues with Mr. Molina or the review.

FDE #4 stated that he has never seen anything in writing that specifies the level of review that is to be used by the City Treasurer regarding check requests.

FDE #4 stated that he finds nothing unusual about Mr. Molina electing to perform this review before simply signing the checks.

3. Analysis

There is no dispute that Mr. Molina, on a weekly basis, reviews the check requests from Accounts Payable, including requests originating in the Public Works Department. There is no dispute that he looks as the funding on a line item basis to ensure that there is sufficient funds to cover the expense. There is no dispute that he also reviews other supporting documentation to ensure that it is there and properly signed. Finally, it is undisputed that he will hold a check if either the funding or supporting documentation is lacking in his view. Thus, the sole question to be answered is whether he is authorized as the City Treasurer to do that.

The short answer is yes. This is a result of both the duties of the positions as outlined by the two documents identified above, as well as the undisputed fact that he has and continues to be permitted to perform this review on a weekly basis.

As to the documents, then-Assistant City Attorney's memorandum specifies that Mr. Molina is to pay out of money on properly signed warrants (Gov't Code § 41003), which can be interpreted to include properly funded warrants as the City's practice has been and continues to be that he can hold checks under these circumstances. (See Exhibit C.) In this regard, the Asst. CFO admitted that "we have allowed this to happen." Demonstrating that whether initially authorized to perform this review and hold checks, Mr. Molina has been permitted to do so for at least two years.

Additionally, Liebert, Cassidy's June 28, 2017 letter to then-Chief Financial Officer, the HR Director, and the City Attorney specifies that the City Treasurer performs an audit and provides approval before the checks are printed. (See Exhibit D.) The necessity of this review is illustrated by the Asst. CFO's admission that Mr. Molina has discovered actual errors.

Thus, Mr. Molina is performing a review that is within his authority as outlined by Liebert, Cassidy's letter and that the City has permitted as a matter of practice since he took office.

Moreover, although the Adopted Budget Book and the Fiscal Year 2018-2019 CAFR both address a department head's authority to transfer appropriations between programs within the same fund, as long as funding is available in the department as a whole, those documents nevertheless do not relieve the department head of the obligation to perform that reapportionment before requesting a check. Thus, to the extent that Mr. Molina is requiring that these allocations at least receive City Manager approval before he will release a check, this requirement does not violate the language of either document. Furthermore, since the City has allowed Mr. Molina to exercise this power since he took office and began performing these reviews, the City has authorized him to exercise this discretion as a matter of practice.

H. Did Mr. Molina exceed the scope of his position as City Treasurer by weighing in on procurements that did not involve his office or department?

1. Finding

By a preponderance of the evidence, the Investigator finds that Mr. Molina exceeded the scope of his position as City Treasurer by weighing in on procurements that did not involve his office or department.

This allegation is substantiated.

2. Facts

a. Document

(1) January 26, 2017 Memorandum re Duties of City Treasurer

As previously noted, on January 26, 2017, then-Assistant City Attorney issued a memorandum outlining the City Treasurer's duties under State law and City Ordinance/Resolution. Those duties are as follows:

1. Receive and safely keep all money;

2. Comply with all laws governing the deposit and securing of public funds and the handling of trust funds;

3. Pay out money on properly signed warrants;

4. Keep a record of bonds, warrants, judgments, notes, or other evidence of indebtedness redeemed, and report redemption to the City Council;

5. Duties related to registered bonds;

6. Maintenance of a book showing at all times what bonds are registered and in whose names;

7. Disbursement of funds;

8. Tax collection duties;

9. Collection of business tax certificates;

10. Pay written demands submitted and audited by the Chief Financial Officer;

11. Investment of public funds;

12. Utility billing responsibilities; and

13. Duties related to unclaimed funds held by the City.

Procurements are not mentioned anywhere within this document outlining the City Treasurer's duties.

b. Witnesses Statements

The CFO and the Purchasing Manager, stated that Mr. Molina exceeds the scope of his office by continually offering unsolicited advice regarding how procurements should be run. Both individuals indicated that Mr. Molina's advice results in an expenditure of time and energy in order to research and respond to his input. They both stated that this advice is provided with respect to procurements that were neither initiated by nor involve his department.

The Investigator was unable to obtain Mr. Molina's position on this allegation as Mr. Molina declined to meet with the Investigator for a second interview.

3. Analysis

The CFO and the Purchasing Manager offered corroborating testimony with respect to Mr. Molina's practice of providing unsolicited input with respect to procurements. Both also confirmed that addressing and responding to Mr. Molina results in an expenditure of time and resources.

There is nothing in the document outlining Mr. Molina's duties as the City Treasurer that even remotely connects to procurements. Thus, Mr. Molina's conduct falls outside the scope of his position.

I. Did Mr. Molina exceed the scope of his position as City Treasurer by injecting himself into general accounting issues that are the Finance Department's exclusive responsibility?

1. Finding

By a preponderance of the evidence, the Investigator finds that Mr. Molina exceeded the scope of his position as City Treasurer by injecting himself into general accounting issues that are the Finance Department's exclusive responsibility.

This allegation is substantiated.

1. Facts

a. Document

(1) January 26, 2017 Memorandum re Duties of City Treasurer

As previously noted, on January 26, 2017, then-Assistant City Attorney issued a memorandum outlining the City Treasurer's duties under State law and City Ordinance/Resolution. Those duties are as follows:

1. Receive and safely keep all money;

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4. Keep a record of bonds, warrants, judgments, notes, or other evidence of indebtedness redeemed, and report redemption to the City Council;

5. Duties related to registered bonds;

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7. Disbursement of funds;

8. Tax collection duties;

9. Collection of business tax certificates;

10. Pay written demands submitted and audited by the Chief Financial Officer;

11. Investment of public funds;

12. Utility billing responsibilities; and

13. Duties related to unclaimed funds held by the City.

General accounting not mentioned anywhere within this document outlining the City Treasurer's duties.

b. Witness Statement

(1) CFO

The CFO voiced the following complaint regarding general accounting:

> Yeah, the second one is not part of the normal relationship between the City Treasurer's Office and—the accounts payable obviously is a big part of the normal relationship with the City Treasurer's Office and the Finance Department, and what I just described is Phil taking a part of that relationship and then adding—imposing his own policy level of control that he feels appropriate. But the second area is of general accounting issues for the City and in the Finance Department where the City Treasurer does not have a role, but which Phil frequently inserts himself into—either with questions or challenges or assertions that we're violating governmental accounting standard—board standards. And these are incredibly time consuming for accounting staff, especially for our Assistant CFO, and for our Controller, and for other accounting staff. Phil will also copy councilmember who sometimes then ask the question that he's asked.

> He'll sometimes—he'll frequently address emails to the internal auditors, who is a third party contractor, or to the City's independent financial auditor, ask them questions, challenge certain accounting treatments, and I'm sure he does this because 20 years ago he was a Finance Director and he was an active CPA at one point. So he knows a lot about accounting, but that's not the role he's in now and—but he acts like it is and so we spend way, way more time than we should answering questions about accounting—sometimes the same one over and over and over, posed in different ways or by different people or by Phil because he perhaps forgot the answer from a previous question a few months prior. And it's very disruptive.

(2) Phillip Molina

The Investigator was unable to obtain Mr. Molina's position on this allegation as Mr. Molina declined to meet with the Investigator for a second interview.

1. Analysis

There is nothing in the document outlining Mr. Molina's duties as the City Treasurer that identifies responsibility for general accounting within the City. Thus, Mr. Molina's conduct falls outside the scope of his position.

Conclusions

1. Mr. Molina interfered with the investigation by communicating with the Asst. CFO after being directed not to do so, by meeting with the members of his department to discuss this investigation after being directed not to do so, and by circulating an email regarding this and another investigation into his alleged conduct.

2. Mr. Molina made inappropriate comments concerning female employees' appearance/attire, stereotypical female roles, and sexual innuendo in the workplace that violated the City's Sexual Harassment policy contained in its Personnel Rules and Regulations.

3. Mr. Molina did accuse and improperly investigate CMO Employee #1 for theft in connection with a perceived shortfall in parking lot money related to the Dallas Cowboys' Training Camp held in the Summer of 2019, and Mr. Molina's conduct violated the City's Personnel Rules and Regulations and fell outside his duties as outlined by the City Attorney's Office.

4. Mr. Molina engaged in "keyboard warfare" by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Public Works Department's expense.

5. Mr. Molina did not exceed the scope of his position as City Treasurer by engaging in a review of the accounts payable register of checks and holding those checks, including

checks requested by the Public Works Department, that he determined lacked sufficient funding or supporting documentation.

6. Mr. Molina engaged in "keyboard warfare" by using misleading emails that were blind copied to various individuals, including members of the public, and that were designed to enhance his own image at the Finance Department's expense.

7. Mr. Molina did not exceed the scope of his position as City Treasurer by engaging in a review of the accounts payable register of checks and holding those checks, including checks requested by the Finance Department, that he determined lacked sufficient funding or supporting documentation.

8. Mr. Molina exceeded the scope of his position as City Treasurer by weighing in on procurements.

9. Mr. Molina exceeded the scope of his position as City Treasurer by injecting himself into general accounting issues that are the Finance Department's exclusive responsibility.

This concludes the investigation.

Respectfully submitted,

Jorge J. Luna

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TELEPHONE NO.: 805-385-7427 FAX NO. (Optional):
E-MAIL ADDRESS (Optional): Jennie.Kelly@oxnard.org
ATTORNEY FOR (Name): City of Oxnard and Alexander Nguyen in his official capacity

FOR COURT USE ONLY

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FILED
by Superior Court of California
County of Ventura
03/16/2023
Brenda L. McCormick
Executive Officer and Clerk
Yvette Madrigal
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Ventura
STREET ADDRESS: 800 S. Victoria Avenue
MAILING ADDRESS: PO Box 6489
CITY AND ZIP CODE: Ventura, CA 93009
BRANCH NAME: Hall of Justice

PLAINTIFF/PETITIONER: Phillip Molina
DEFENDANT/RESPONDENT: City of Oxnard and Alexander Nguyen, in his official capacity

NOTICE OF ENTRY OF JUDGMENT OR ORDER

(Check one): [ ] **UNLIMITED CASE** (Amount demanded exceeded $25,000) [x] **LIMITED CASE** (Amount demanded was $25,000 or less)

CASE NUMBER:
56-2020-00541689-CU-PT-VTA

TO ALL PARTIES :

1. A judgment, decree, or order was entered in this action on *(date)*: March 7, 2023

2. A copy of the judgment, decree, or order is attached to this notice.

Date: March 16, 2023

Jennie M. Kelly
(TYPE OR PRINT NAME OF [x] ATTORNEY [ ] PARTY WITHOUT ATTORNEY)

(SIGNATURE)

Ventura Superior Court Accepted through eDelivery submitted 03-16-2023 at 02:13:30 PM

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Fee exempt under Gov. Code § 6103

VENTURA
SUPERIOR COURT
FILED
MAR 07 2023
BRENDA L. McCORMICK
Executive Officer and Clerk
By:_____, Deputy
RACHEL JACOBS

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF VENTURA

PHILLIP MOLINA, IN HIS CAPACITY AS Treasurer of the City of Oxnard, Petitioner, v. ALEXANDER NGUYEN, In His Capacity as City Manager of the City of Oxnard; CITY OF OXNARD, a California General Law Municipality and DOES 1 through 10, INCLUSIVE Respondents.	Case No. 56-2020-00541689-CU-PT-VTA [PROPOSED] **JUDGMENT DENYING PETITION FOR WRIT OF MANDATE** Hearing Dates: November 8, 2022 and December 6, 2022 Dept: 40 Judge: Mark S. Borrell

This matter came on regularly before this Court on November 8, 2022 and December 6, 2022 in Department 40 of Ventura County Superior Court, the Honorable Mark S. Borrell presiding. Michael G. Walker from the Law Offices of Norman Dowler appeared as attorney for petitioner. Assistant City Attorney Jennie M. Kelly and Chief Assistant City Attorney Kenneth Rozell appeared as attorneys for respondents.

The Court received and examined evidence from the parties and considered the arguments presented by the parties.

Ventura Superior Court Accepted through eDelivery submitted 03-16-2023 at 02:13:30 PM

IT IS ORDERED that:

1. The petition filed in this action for a writ of mandate is denied;

2. The Court issues its ruling in accordance with its "TENTATIVE DECISION" consisting of 27 pages filed on January 6, 2023. This TENTATIVE DECISION shall become the court's statement of decision at the time judgment is entered.

3. Respondent shall recover its costs in this action, in the amount of TBD.

Dated: 2/14/23

MARK S. BORRELL
Hon. Mark S. Borrell
Judge of the Superior Court

Ventura Superior Court Accepted through eDelivery submitted 03-16-2023 at 02:13:30 PM

Ventura Superior Court Accepted through eDelivery submitted 03-16-2023 at 02:13:30 PM

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF VENTURA)

I, the undersigned, am a resident of the county aforesaid: I am over the age of eighteen years, and not a party to the within entitled action; my business address is: 305 West Third Street, Suite 100E, Oxnard, CA 93030.

On February 1, 2023, I served the following:

JUDGMENT DENYING PETITION FOR WRIT OF MANDATE

By the methods indicated below:

- ☐ By electronic transmission via e-mail attachment
- ☐ By personal service
- ☑ By placing a true copy of the aforementioned document to each below named party in a sealed envelope with postage thereon fully prepaid, in the United States mail at Oxnard, California, addressed as follows:

Michael G. Walker, Esq.
Norman Dowler
840 County Square Drive
Ventura, CA 93003

I certify, under penalty of perjury, that the foregoing is true and correct.

Executed on February 1, 2023, at Oxnard, California

Lorraine Ebdon

Lorraine Ebdon, Paralegal

Ventura Superior Court Accepted through eDelivery submitted 03-16-2023 at 02:13:30 PM

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF VENTURA)

I, the undersigned, am a resident of the county aforesaid: I am over the age of eighteen years, and not a party to the within entitled action; my business address is: 305 West Third Street, Suite 100E, Oxnard, CA 93030.

On March 16, 2023, I served the following:

NOTICE OF ENTRY OF JUDGMENT OR ORDER

By the methods indicated below:

- ☑ By electronic transmission via e-mail attachment
- ☐ By personal service
- ☐ By placing a true copy of the aforementioned document to each below named party in a sealed envelope with postage thereon fully prepaid, in the United States mail at Oxnard, California, addressed as follows:

Michael G. Walker, Esq.
Norman Dowler
840 County Square Drive
Ventura, CA 93033
Email: mwalker@normandowler.com

I certify, under penalty of perjury, that the foregoing is true and correct.

Executed on March 16, 2023, at Oxnard, California

Lorraine Ebdon, Paralegal

VENTURA
SUPERIOR COURT
FILED
JAN 06 2023
BRENDA L. McCORMICK
Executive Officer and Clerk
By Tammy Brantner Deputy
TAMMY BRANTNER

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF VENTURA

PHILLIP MOLINA, In His Capacity as Treasurer of the City of Oxnard, Petitioner, vs. ALEXANDER NGUYEN, In His Capacity as City Manager of the City of Oxnard; CITY OF OXNARD, a California General Law Municipality; and DOES 1 through 10, inclusive, Respondents.	Case No.: 56-2020-00541689-CU-PT-VTA TENTATIVE DECISION

Petitioner, Phillip Molina ("Molina"), is the elected City Treasurer for the City of Oxnard. He contends that the City of Oxnard ("City") has restricted his powers as city treasurer to an extent not permitted by the Government Code. The City disputes this contention. It asserts that the duties removed from the City Treasurer were "administrative" and may properly be reassigned to others in city government.

Request for Judicial Notice

Molina requests judicial notice of the City's adopted budget for fiscal years 2017-2018; 2018-2019; 2019-2020; 2020-2021; 2021-2022, and proposed budget for 2022-2023. The request is granted pursuant to Evidence Code section 452, subdivisions (b), (c), and (h).

Background

The relevant facts are largely undisputed.[1]

The City is a general law city and at all relevant times had a population of well over 200,000.

The city treasurer is elected.[2] Molina was first elected to the office of city treasurer in 2016, with his initial 4-year term commencing in January 2017. He remains city treasurer, having been re-elected to that office in 2020. When Molina began his first term, the treasurer's office consisted of 19 full-time positions with an annual budget of approximately $3 million. On October 16, 2019, Alexander Nguyen, the city manager, purported to place Molina on "administrative leave" from the "administrative duties" of city treasurer. Nguyen took other steps intended to curtail Molina's authority as city treasurer.[3]

On May 5, 2020, the city council adopted Resolution No. 15,324. That resolution purported to transfer from the city treasurer to the assistant city treasurer duties of signing financial instruments, initiating and approving electronic bank transfers, and controlling the facsimile signature plates used for these purposes. Unlike the city treasurer, the *assistant* city treasurer is not elected and is answerable only to Nguyen and the city council. A second resolution was adopted at that same time. That resolution, Resolution No. 15,325, reduced the salary of the city treasurer from a range of $114,656.88 to $157,652.98 to the fixed sum of $20,412.08. This latter sum is the amount the City pays each of its city council members.

Two weeks later, on May 19, 2020, the city council enacted Ordinance No. 2977. This ordinance installed the assistant city treasurer as the city's license collector in place of the city treasurer. The ordinance also repealed a prior city code section that provided that the city

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[1] The City has offered extensive evidence that it contends establishes that Molina is unfit to perform certain duties of a city treasurer. This evidence is irrelevant. Molina is not an employee. He is an elected official. The issue is not whether the City acted prudently in restricting Molina's authority. The issue is simply whether the City had the *ability* to restrict Molina's authority. Therefore, the court has sustained Molina's objections to much of the City's evidence, as indicated on the record. The court expresses no opinion as to the merit of the City's criticisms of Molina's performance.

[2] Unless indicated otherwise, all references to local government offices, bodies or officials relate to the City of Oxnard.

[3] Any determination as to the propriety of these actions by Nguyen is outside the scope of the prayer of the operative petition. The court's ruling is restricted to the validity of the resolutions and ordinances identified below.

treasurer served as the head of the City Treasurer's Office.

On June 30, 2020, the city council adopted a budget for the following fiscal year. That budget defunded the City Treasurer's Office and established a Department of Billing and Licensing, with an annual budget comparable to the former City Treasurer's Office. The newly formed department consisted of the same 19 full-time positions that were previously in the City Treasurer's Office.

The instant petition challenges these resolutions and ordinance on the ground that, according to Molina, they purport to remove from the city treasurer authority instilled in that office by the Government Code. The City disputes this contention.

Discussion

1. Powers and Duties of City Treasurer under the Government Code

The court begins its analysis with a synopsis of the powers and duties vested in a city treasurer of a general law city under the Government Code.

The City is a general law city. "The Government Code classifies cities as either 'general law cities' (cities organized under the general law of California) or 'chartered cities' (cities organized under a charter). (Gov.Code, §§ 34100, 34101, 34102; [some citations omitted].) The powers of a general law city include ' "only those powers expressly conferred upon it by the Legislature, together with such powers as are 'necessarily incident to those expressly granted or essential to the declared object and purposes of the municipal corporation.' The powers of such a city are strictly construed, so that 'any fair, reasonable doubt concerning the exercise of a power is resolved against the corporation.' [Citation.]" [Citations.]' [Citations.]" (*G.L. Mezzetta, Inc. v. City of American Canyon* (2000) 78 Cal.App.4th 1087, 1092; also see *Pacifica Firefighters Association v. City of Pacifica* (2022) 76 Cal.App.5th 758, 768.)

The Government Code vests certain powers and duties in a city treasurer of a general law city. (See (Gov. Code, § 36501.)[4] Generally, those are:

///

[4] Government Code section 36501 states: "The government of a general law city is vested in: [¶] (a) A city council of at least five members. [¶] (b) A city clerk. [¶] (c) A city treasurer. [¶] (d) A chief of police. [¶]. (e) A fire chief. [¶] (f) Any subordinate officers or employees provided by law."

(a) Receipt and Safekeeping of Money – a city treasurer is to receive and keep safely all money coming into the treasurer's hands as treasurer. (See Gov. Code, § 41001.)[5]

(b) Collection of Taxes and License Fees -- a city treasurer must perform those duties relative to the collection of city taxes and license fees that may be prescribed by ordinance. (See Gov. Code, § 41005.)[6]

(c) Secure Public Funds and Trust Funds -- a city treasurer must comply with all the laws governing deposit and securing of public funds and the handling of trust funds in the city treasurer's possession. (See Gov. Code, § 41002.)[7]

(d) Pay Properly Signed Warrants -- a city treasurer must pay out money on warrants signed by legally designated persons. (See Gov. Code, § 41003.)[8]

(e) Make Financial Reports -- a city treasurer must at least monthly submit to the city clerk and file with the city legislative body a written report and accounting of all receipts, disbursements, and fund balances. (See Gov. Code, § 41004.)[9]

(f) Contract with Depositories -- a city treasurer is responsible for the safekeeping of money in his or her custody and shall enter into any contract with a depository relating to any deposit which in his or her judgment is to the public advantage. (See Gov. Code, § 53649.)[10]

(g) Appoint and Supervise Deputies -- a city treasurer may appoint and supervise deputies.

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[5] Government Code section 41001 states: "The city treasurer shall receive and safely keep all money the treasurer receives."

[6] Government Code section 41005 states: "The city treasurer shall perform such duties relative to the collection of city taxes and license fees as are prescribed by ordinance."

[7] Government Code section 41002 states: "(a) The city treasurer shall comply with all laws governing the deposit and securing of public funds and the handling of trust funds in his or her possession. [¶] (b) If the city has issued bonds, the city treasurer shall use a system of accounting and auditing that adheres to generally accepted accounting principles."

[8] Government Code section 41003 states: "The city treasurer shall pay out money only on warrants signed by legally designated persons."

[9] Government Code section 41004 states: "Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances. The city treasurer shall file a copy with the legislative body."

[10] Government Code section 53649 states in part: "The treasurer is responsible for the safekeeping of money in his or her custody and shall enter into any contract with a depository relating to any deposit which in his or her judgment is to the public advantage."

(See Gov. Code §§ 41006, 41007.)[11] (See generally, 69 Ops. Cal. Atty. Gen. 25 (1986).)

2. *Parties' Contentions*

Molina correctly observes that a general law city may not enact an ordinance or pass a resolution contrary to the general law. (Cal. Const., art. XI, § 7; Gov. Code, § 37100.) He also correctly asserts that the City, as general law city, may not remove powers vested in the city treasurer under the Government Code except to the extent permitted by the general law: "Although a city council of a general law city has a good deal of power over its city treasurer . . . still the office of treasurer is one established by state statute and the actions a city council can take in its regard are not without limit." (69 Ops. Cal. Atty. Gen. 25 (1986).)

Molina contends that the City, through the resolutions and ordinances challenged here, has removed from his office the resources and responsibilities he requires to perform as city treasurer and that the City has essentially reduced him to a mere figurehead. Specifically, Molina points to these changes implemented by the City:

(1) The reassignment of the city treasurer's duties concerning licensing, billing, banking, and investments to the assistant city treasurer, over whom the city treasurer has no authority;

(2) The substantial reduction in the city treasurer's salary;

(3) The elimination of the city treasurer's office, staff and budget; and

(4) The denial of access to certain financial information and the transfer of the city treasurer's reporting responsibilities to the director of finance. (See First Amd. Pet., p. 13.)

Based on these assertions, Molina asks the court to find the challenged resolutions and ordinances to be contrary to the Government Code either on their face or as applied to him.

The City disputes Molina's contentions. Although agreeing that substantial changes were made to the authority of the city treasurer, the City argues that those changes affected only the city treasurer's "administrative duties" and left intact the responsibilities expressly granted to a city treasurer under the Government Code (i.e., "statutory duties"). Therefore, the City asserts, the challenged resolutions and ordinances do not contradict the Government Code, either facially

[11] Government Code sections 41006 and 41007 state: "The city treasurer may appoint deputies," and "The deputies shall hold office at the pleasure of the city treasurer and receive such compensation as is provided by the legislative body."

or as the City has applied them to Molina. Further, the City contends that the Government Code permits a general law city council to assign some duties otherwise vested in a city treasurer to other city officials and that the City here transferred duties from Molina in accordance with that law.

3. Standard for Determination

As noted above, Molina makes both a facial challenge to the ordinance and resolutions and an "as-applied" challenge. Because each calls for a distinct legal analysis, the court next addressed those standards of determination.

a. Facial Challenge

"A facial challenge to the constitutional validity of a statute or ordinance considers only the text of the measure itself, not its application to the particular circumstances of an individual." (*Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1084.) The plaintiff bears the burden of demonstrating that the ordinance is invalid. (*Building Industry Assn. of Bay Area v. City of San Ramon* (2016) 4 Cal.App.5th 62, 90.) At a minimum, the plaintiff must show that the ordinance is invalid "in all or most cases." (*Ibid*; but see *Today's Fresh Start, Inc. v. Los Angeles County* (2013) 57 Cal.4th 197, 218 [the "standard for a facial constitutional challenge to a statute is . . . the subject of some uncertainty"].) But a plaintiff does not meet his burden by showing a hypothetical problem may arise in the future. (*Lent v. California Coastal Com.* (2021) 62 Cal.App.5th 812, 843.)

Facial challenges are disfavored. (*Building Industry Assn. of Bay Area v. City of San Ramon* (2016) 4 Cal.App.5th 62, 90.) Because of judicial deference to a co-equal branch of government, there is a strong presumption favoring the validity of statutes and ordinances. (*Taking Offense v. State* (2021) 66 Cal.App.5th 696, 705.) An ordinance will be upheld against a facial challenge unless it is clearly demonstrated to be invalid. (*Ibid.*)

b. As-Applied Challenge

An "as-applied" challenge "contemplates analysis of the facts of a particular case or cases to determine the circumstances in which the statute or ordinance has been applied and to consider whether in those particular circumstances the application deprived the individual to

whom it was applied of a protected right." (*Tobe v. City of Santa Ana, supra*, 9 Cal.4th at p. 1084.) A plaintiff asserting an as-applied challenge "may seek (1) relief from a specific application of a facially valid statute or ordinance to an individual or class of individuals who are under allegedly impermissible present restraint or disability as a result of the manner or circumstances in which the statute or ordinance has been applied, or (2) an injunction against future application of the statute or ordinance in the allegedly impermissible manner it is shown to have been applied in the past." (*Ibid.*)

Having addressed these preliminary matters, the court next turns to the disputed enactments.

4. Resolution No. 15,324

Molina contends that Resolution No. 15,324, adopted by the city council on May 5, 2020, is invalid. That resolution did basically two things. First, it amended a 1992 resolution (Pet. Ex. 1, Resolution No. 10,456) which authorized the city treasurer or the assistant city treasurer to sign financial instruments drawn on depositories designated by the city treasurer. Second, it eliminated references to certain duties of the city treasure that were described in a memorandum formally adopted by the city council in 1994. (Pet. Ex. 2, Resolution No. 10,820.) These matters are addressed next.

(a) Financial Signatories and Depositories: Sections 1 and 2 of Resolution No. 15,324

Resolution No. 15,324 in part amended a 1992 resolution granting authority to the city treasurer and assistant city treasurer to sign "financial instruments." Section 1 of Resolution No. 15,324 deleted the reference to the city treasurer, and left only the *assistant* city treasurer, as authorized signatory on financial instruments. Similarly, Section 2 allowed the *assistant* city treasurer (without reference to the city treasurer) to initiate electronic bank transactions.

Additionally, whereas the 1992 resolution referenced "financial instruments drawn on any eligible depository designated by the City Treasurer," Resolution No. 15,324 omitted the words, "designated by the City Treasurer." The 1992 resolution as amended was silent as to the power to designate an "eligible depository."

The court concludes that Sections 1 and 2 of Resolution No. 15,324 are not facially invalid because there is no conflict between the Government Code and the text of these sections. A statutory duty of a city treasurer is to "pay out money only on warrants *signed by legally designated persons.*" (Gov. Code, § 41003.) But the Government Code does not make a city treasurer a "legally designated" signatory, nor does it bestow on a city treasurer the authority to designate who is such a signatory.

Government Code section 37203 states:

> "Upon allowing a demand or approving a register of audited demands, the mayor shall draw a warrant or warrants upon the city treasurer specifying the purpose for which drawn and the fund from which payment is to be made. The city clerk shall countersign the warrant. The legislative body, by ordinance or resolution, may prescribe an alternative method of drawing warrants and checks."

This statute is important for what it does not say and what it does say. First, it does not say that the city treasurer is empowered to sign warrants. Rather, it recognizes *that power* in a city mayor and city clerk. Second, the statute provides that a city's legislative body (i.e., city council) may alternatively "prescribe" who is authorized to sign warrants. Thus, the City could adopt a resolution implicitly recognizing the power to sign financial instruments in someone other than the city treasurer, which is what the City has done. The analysis for initiating electronic bank transactions is the same.[12]

To the extent that Section 1 of Resolution No. 15,324 eliminated the reference found in the 1992 resolution to the city treasurer's authority to designate financial depositories against which warrants would be drawn, the deletion of those words does not necessarily change what is meant by "any eligible depository." That is, looking strictly at the text of the resolution, as the court must do on a facial challenge, there is nothing to indicate that the City was *disallowing* the city treasury the power to enter "into any contract with a depository relating to any deposit which in his or her judgment is to the public advantage." (See Gov. Code, § 53649.) Rather, the text as

[12] The 1992 resolution did not make reference to electronic banking.

amended is simply silent on that point. Therefore, the 1992 resolution as amended is not in conflict with the city treasurer's duties as described in Government Code section 53649.

Nor has Molina met his burden to show that his discretion to determine which depositories the City does business with has been abridged in practice. Molina, for example, presented no evidence that the City is, against his wishes, banking with a financial institution that he considers unsafe. Similarly, Molina has not shown that any financial institution that is doing business with the City does so on terms which are, in his opinion, not in "the public advantage." (See Gov. Code, § 53649). Juxtaposed against this void of evidence, the City has produced credible evidence indicating that Molina has been directly involved in the preparation of requests for proposals for banking services and in vetting financial brokers. (See Dec. of Jennifer Yates.) This implies that Molina has not been excluded from the process of selecting the financial institutions that the City contracts with.

Therefore, Molina's "as-applied" challenge to Section 1 of Resolution 15,324 is without merit.

(b) *Description of Job Duties: Section 7 of Resolution No. 15,324*

Section 7 of Resolution 15,324 deleted part of a memorandum that describes the job duties of the city treasurer. That memorandum was adopted by the city council in a 1994 resolution. The upshot of the challenged amendment (Section 7) was to remove that portion of the memorandum entitled "Administrative Duties" and to leave in place the portion captioned "Statutory Duties." Conceptually, there is no impediment to that action: Molina does not dispute that the City can take away his administrative duties. However, Molina contends that certain functions were mislabeled in the original memorandum as "administrative" when, in fact, they were "statutory." Further, Molina argues that these statutory duties cannot be devested from the city treasurer simply by mislabeling them as "administrative." Molina identified in his declaration several duties that he contends were listed as "administrative" in the memorandum but, according to him, are not. (Molina Decl., 10/13/22, p. 6.)

The meaning and effect of the deletion of certain job duties assigned to the city treasurer must be construed not only with respect to what was deleted from the memorandum but also with

an eye to what was left. That is, the memorandum as amended must be considered as a whole. For example, although references to "cash controls" and "cash management" were removed from the document, the memorandum continues to assign to the city treasurer the authority to "[r]eceive and safely keep all monies received into the city treasury." (See Gov. Code, § 53649; also see Gov. Code, § 41001.) The text that remained in the memorandum after the adoption of Resolution No. 15,324 expressly recognized that the city treasurer is tasked with the "statutory duties" as "specified in the Government Code," which would necessarily include the duty to "safely keep all money the treasurer receives." (Gov. Code, § 41001.) Facially, there is no conflict between this language and the Government Code.

To the extent that Section 7 of Resolution No. 15,324 deleted from the memorandum the city treasurer's authority to "[p]erform such duties relative to the collection of City taxes and license fees as are prescribed by ordinance" (see Pet. Ex. 2, p. 6), this language comes nearly verbatim from Government Code section 41005. Therefore, the court agrees with Molina that this duty is plainly mislabeled in the memorandum as one that is "administrative." Removing it from the memorandum where it does not belong would, therefore, seem entirely appropriate. But Molina argues that impliedly the deletion of this language (originally mischaracterized as an "administrative duty") suggests that he has been deprived of this statutory duty. The court disagrees.

As noted above, the memorandum in its present form provides that the city treasurer's duties include all statutory duties specified in the Government Code, which would include those granted by Government Code section 41005. The court must presume the resolution is valid and must reasonably construe it in a manner to reconcile it with the general law. Doing so here, the court finds no fault with Section 7 of Resolution 15,324 – what the amended language of memorandum expressly states (i.e., the city treasurer has the duties assigned by the Government Code) is clear and direct, and that interpretation of the writing has more compelling force than any opposing inference that may be drawn from what is no longer part of the writing.

Molina contends, however, that as applied to him the effect of the resolution is to remove statutory duties he previously held. Yet, there is no evidence that the City is relying on the

trimmed-down memorandum as the basis for denying Molina anything. Therefore, an as-applied challenge to Section 7 of this resolution has not been proved.

(c) Conclusion: Resolution 15,324

For these reasons, the court finds that Molina's challenge, facial and as-applied, to Resolution 15,324 is without merit.

5. Compensation of City Treasurer: Resolution 15,325 and Ordinance 2977, Sections 10 and 12

At the same time the city council adopted Resolution No. 15,324, it also adopted Resolution 15,325. The latter resolution had the effect of reducing the annual salary of the city treasurer from over $114,000 to $20,412. The new rate of compensation was commensurate with the salary paid to each of the City's city council members. Although the resolution was adopted May 5, 2020, the change in the city treasurer's salary did not go into effect until after the November 2020 election. Molina was re-elected city treasurer in that election.

Shortly after the adoption of Resolution No. 15,325, the city council enacted Ordinance No. 2977. Section 12 of that ordinance provided that after the November 2020 election "the person occupying the city treasurer classification shall receive such compensation as determined by City Council resolution for that position." Presently, Resolution No. 15,325 is that resolution. Section 10 of Ordinance No. 2977 provided that after the November 2020 election the city treasurer would be entitled to the same benefits as a city council member would receive.

Government Code section 36517 provides that a "city treasurer shall receive, at stated times, a compensation fixed by ordinance or resolution." It is not disputed that under this statute the City has substantial discretion in setting the compensation of its city treasurer. (See 84 Ops. Cal. Atty. Gen. 13 (2001).) Rather, Molina contends that by setting the city treasurer's compensation at a fraction of the amount that was previously paid, the City has effectively eliminated the office of the city treasurer.

As to this point, the Attorney General has made these observations:

"Needless to say, a general law city cannot act to destroy that independent office. [Citation.] For example, although it has power to fix the compensation for the

office [citation], it cannot refuse to fix it, nor can it fix it so low, that no competent person would deign to serve. [Citation.] As was said in *De Merritt v. Weldon* [(1908) 154 Cal. 545] at 549:

" '[W]here the state legislature has seen fit to determine by lawful act that a municipality shall have a certain designated officer to perform duties specified in the act, who shall be paid for his services a compensation, which compensation shall be fixed by the legislative body of the town,—in this case the board of trustees,—such legislative body of the town may not effectually provide that there shall be no compensation at all, or practically destroy the office by fixing the compensation at so low a figure that no one will discharge the duties thereof for the compensation fixed. Such a provision by the trustees would appear to be in conflict with the act of the state legislature, and therefore void.' "

(69 Ops. Cal. Atty. Gen. 25 (1986); also see 84 Ops. Cal. Atty. Gen. 13 (2001).)

Here, the burden is on Molina to establish that the city treasurer's compensation is so low that no reasonable, qualified person would agree to serve as city treasurer for the reduced salary. This requires more than simply proof that the compensation is unreasonable or disproportionate with the demands of the position. When viewed in this light, it is clear that Molina's evidence falls far short of this threshold. Indeed, as the City correctly observes, it is difficult for Molina to prove that no reasonable person would choose to be city treasure at this rate of compensation because *he did*: Molina ran for re-election knowing that the lower compensation would apply to his next term if he won re-election.

Moreover, the Attorney General has concluded that, in determining whether the compensation paid a city treasurer is permissible, one may compare it to the compensation that a city pays its city council members:

"We have examined the statutory duties of an elected city treasurer. [Citation.] . . These duties do not necessarily require the city treasurer's full-time attention, especially if the city has a finance department responsible for performing the financial affairs of the city. As in *De Merrett* [*v. Weldon, supra,* 154 Cal. 545],

we believe that a competent person would accept the office of city treasurer where the compensation is set at the same level received by city council members." (84 Ops. Cal. Atty. Gen. 13 (2001).)

Here, the evidence shows that, even before the City reduced the responsibilities of the city treasurer, the city treasurer's position was not full-time and that the City has a Finance Department. The reasoning of the Attorney General would suggest that the City has acted within the bounds of its discretion in setting the city treasurer's compensation at the same level that it pays its city council members. Molina offers no justification for rejecting this logic as to him. Therefore, Molina has not established that the reduction in the salary paid to the city treasurer, as implemented through Resolution No. 15,325 and Section 12 of Ordinance No. 2977, was outside the authority lawfully vested in the city council to set the city treasurer's compensation under Government Code section 36517.[13]

6. *Assistant City Treasurer as License Collector: Ordinance No. 2977, Sections 1-8*

The city council enacted Ordinance No. 2977 on May 12, 2020. The first eight sections of that ordinance effectively installed the assistant city treasurer (or that person's designee) as "License Collector." Molina contends that this part of the ordinance violates Government Code section 41005. That section reads: "The city treasurer shall perform such duties relative to the collection of city taxes and license fees as are prescribed by ordinance." The parties disagree as to the meaning of Government Code section 41005. The focus of their disagreement is the last four words of the statute, "as are prescribed by ordinance."

Government Code section 41005 begins with a reference to "such duties." What that phrase means is disputed by the parties. According to Molina, the duties this refers to are those described in the preceding sections of the Government Code concerning the receipt and safekeeping of money (Gov. Code, § 41001), deposit of funds (Gov. Code, § 41002), and preparation of financial reports (Gov. Code, § 41004) relating to "the collection of city taxes and

[13] Section 10 of Ordinance 2977 provided that after the November 2020 election, the city treasurer would receive the same benefits as the city council members would receive. To the extent that Molina challenges this section of the ordinance – it is not overtly discussed in the papers -- that challenge fails for the same reason as does the one concerning monetary compensation.

license fees." (Gov. Code, § 41005.) The City disagrees. It reads the "such duties" language in conjunction with the last phrase of the statute, "as are prescribed by ordinance." According to the City, the duties described in Government Code section 41005 only vest in the city treasurer if a general law city passes an enabling ordinance. Thus, according to the City, a city council may withhold and reassign those duties as it sees fit. Molina claims that the City misreads the statute; he contends that it is the taxes and fees that must be "prescribed by statute" and not the duties of the city treasurer.

Neither party has identified any case authority interpreting the disputed provision of Government Code section 41005. The City points to an Attorney General opinion mentioning that statute but without any analysis that is helpful here. On the other hand, Molina argues that as a matter of first impression this court should adopt his reading of the statute based on rules of statutory interpretation. Both arguments have colorable merit, but the court finds neither is dispositive.

In 1960, the Attorney General considered whether a person could simultaneously hold the offices of city clerk and city treasurer. (36 Ops. Cal. Atty. Gen. 252.) In that context, the Attorney General noted:

> "When authorized by ordinance, a city treasurer is certainly a collector of city taxes (§ 41005). Tax collection functions in Madera County, however, are performed by the county tax collector rather than by the city treasurer. *When authorized by ordinance*, a city treasurer is also a collector of license fee (§ 41005). However, it is doubtful that [former Government Code] section 24004 applies to the collection of license fees." (Emphasis added.)

Although the quoted language above plainly supports the City's position, it is equally plain that the text is dicta. There is no indication from the opinion that the proposition for which the City cites this passage was carefully considered by the Attorney General, and, indeed, the next sentence, beginning "However," would suggest the sentence relied on by the City was collateral to the Attorney General's analysis of the issue before him (which was not the issue presented in this case). Even appellate court decisions are not authority for propositions not

considered. (*Ruiz v. County of San Diego* (2020) 47 Cal.App.5th 504, 522.) The same is no less true for Attorney General opinions.

Molina advances a different approach. In contrast to the City's interpretation, Molina urges the court to apply rules of statutory construction to read Government Code section 41005 in a light favorable to his position. He relies on the so-called "last antecedent rule" in arguing that the phrase "as are prescribed by ordinance" applies to "taxes and fees" and not to "such duties."

Rules of statutory interpretation must be carefully applied and not used until an attempt has been made to ascertain the legislative intent from the words of the statute. (*Smart Corner Owners Association v. CJUF Smart Corner LLC* (2021) 64 Cal.App.5th 439, 459-460.) Should that fail to resolve an ambiguity, the court must look to the legislative history. (*Ibid.*) If the meaning of the statute remains unclear after that, the court may turn to secondary rules of construction. (*Ibid.*)

Here, the court believes that each side has advanced a plausible and reasonable, albeit conflicting, interpretation of the statute. Neither side has provided the court with the statute's legislative history. Therefore, the court may resort to rules of construction.

The rule of last antecedent is a well-recognized interpretative tool. (See *Yahoo Inc. v. National Union Fire Insurance Company* (2022) 14 Cal.5th 58 [contract interpretation]; also see *Renee J. v. Superior Court* (2001) 26 Cal.4th 735, 743 [statute].) "As formulated by [the California Supreme Court], the rule provides that ' " 'qualifying words, phrases and clauses are to be applied to the words or phrases immediately preceding [them] and are not to be construed as extending to or including other[ ] [words or phrases] more remote.' " ' [Citation.]" (*Ibid.*) "The last antecedent rule is often applied where there is a list of terms, and the qualifying words or phrases follow the last item in the list." (*Ibid.*) "But more generally, the last antecedent rule can be understood to express . . . rules of English word order . . ., meaning that a restrictive relative clause usually modifies the noun immediately preceding it." (*Ibid.*)

Applying the rule of the last antecedent to Government Code section 41005 produces a construction of the statute consistent with Molina's position. That is, the concluding phrase of

the statute, "as are prescribed by ordinance," would modify the closest nouns, "taxes" and "fees." In other words, it would be the taxes and fees, and not the city treasurer's duties, that would depend on an enabling ordinance.

But, "the last antecedent rule is ' "not immutable" ' and should not be 'rigidly applied' in all cases." (*People ex rel. Lockyer v. R.J. Reynolds Tobacco Co.* (2003) 107 Cal.App.4th 516, 530 [contract].) More important than grammatically harmonizing statutory language is the goal of harmonizing the language in question with the meaning of other related statutes. (See *People v. Cole* (2006) 38 Cal.4th 964, 975 [court "must harmonize the various parts of the enactments by considering them in the context of the statutory framework as a whole"].) Here, the interpretation Molina offers would create a conflict with another provision of the Government Code:

Government Code section 41607 provides, "The chief of police shall perform any license fee and tax collection services prescribed by ordinance." This unambiguous statutory language begs the question: If a city council may, by ordinance, delegate "license fee and tax collection services" to the chief of police, then can Molina persuasively contend that Government Code section 41005 vests in a city treasurer "duties relative to the collection of city taxes and license fees," which include receiving those funds (see Gov. Code, § 41005), that cannot be altered by ordinance? Molina's construction appears to place these two statutes in conflict. The one statute allows a city council to assign license collection duties to the chief of police, and, yet, according to Molina, a city council may not by ordinance transfer those same duties away from the city treasurer.

The City's interpretation of Government Code section 41005 reconciles the two statutes. Under the City's construction, a city council may, by ordinance, "prescribe" the branch of city government responsible for collection of license fees. That is what the City did here.

Moreover, in response to Molina's argument, which is fundamentally based on grammar and sentence structure, it is significant to the court that the Legislature in drafting Government Code sections 41005 and 41607 used the same phrase – "prescribed by ordinance" – at the end of each sentence. Both sections were enacted at the same time. (See Stats. 1949, c. 79, p. 215,

218.) It is a fair inference that in doing so, the Legislature intended the words to have comparable meaning and effect, and that each statute was enacted with an awareness of the other.

For these reasons, the court concludes that the city council acted within its statutory authority in enacting that portion of Ordinance No. 2977 that transferred responsibility for collecting license fees to the assistant city treasurer. Therefore, Molina's challenge to Sections 1-8 of that ordinance is without merit.

7. *Elimination of the City Treasurer's Office: Ordinance No. 2977, Section 9*

Part of Ordinance No. 2977 – specifically, Section 9 – deleted provisions from the city code that authorized the city treasurer to serve as head of the City Treasurer Department. Additionally, the City eliminated from the City's budget a discrete item for the City Treasurer Department, cut funding for the city treasurer's activities to $1,000, relocated the city treasurer's office, restricted his access to computer-stored financial information, directed Molina not to contact staff other than department heads, and reassigned 19 full-time positions from the City Treasurer Department.[14] Molina describes the cumulative effect of these actions as the elimination of his statutory office.

The City does not dispute that duties, funding, and personnel were transferred from the City Treasurer Department to other segments of the city government, including a newly formed Department of Billing and Licensing. It asserts, however, that the city treasurer was provided with everything he required to fulfill his statutory duties and that Molina never requested additional resources.

In the context of a facial challenge, there is no impediment to the City's "elimination" of the City Treasurer's Department. The Government Code recognizes the *office* of city treasurer and directs a general law city to fill that office. But the Government Code does not require a city government create a *department* for that office. A general law city may eliminate a city treasurer's department so long as in doing so it does not eliminate the statutory *office*. The

[14] Some of these actions occurred in October 2019, prior to the adoption of Ordinance 2977.

express language of Section 9 does not cross that line. Therefore, the facial challenge is without merit.

The point more strongly advanced by Molina is that the changes made by the City so profoundly impeded his ability to carry out his statutory duties that the City effectively made it impossible for him to be city treasurer. The court concludes that Molina has not proved this contention.

The mere reduction in the resources (money, staff, access to information) does not establish Molina's claim because it is undisputed that the City may, to some extent, reduce his duties. Reduced duties would, logically, require fewer resources.

More to the point, Molina has not convincingly demonstrated that the pared down resource available to the city treasurer are inadequate to perform the pared down duties of the office. For example, although stating that the City Treasurer Department formerly consisted of 19 full-time employees and had a budget of several million dollars at a time when the city treasurer was tasked with both statutory and administrative duties, Molina makes no attempt to allocate the need for those staff positions between the duties he formerly was assigned and those that he currently holds. He merely has declared that he is "unable to discharge [his] statutory duties" without greater resources than the City has provided (e.g., see Molina Decl., 10/13/22, p. 11), but this conclusory assertion leaves too much to speculation to be persuasive. Molina's understanding of what are "statutory duties" has not been adopted by the court, and there is insufficient information provided by Molina that would allow the court to recalibrate his generalized opinions to fit the findings the court has made.

For example, beginning at page 15 of his declaration, Molina described the authority he believes he requires to fulfill his "statutory duties." What his declaration consists of is a general list of tasks (e.g., "[r]eceive the city's money") that he says he is empowered by statute to perform as city treasurer. The court determined this evidence was not admissible because it is based on an undifferentiated assumption as to what *Molina* considers are his "statutory duties." Even if the court were to consider this evidence, it would still not persuade. For example, Molina declared, "To carry out my statutory duties as city treasurer, I also need restored to me

the assistance of city staff similar in size and makeup to the staff that the city previously provided to me." (Molina Decl., 10/13/22, p. 16.) However, he fails to explain why he requires roughly the same staff he had at his disposal when the city treasurer was also tasked with various administrative duties that have, both sides agree, been appropriately removed. The court is not required to embrace an opinion that is conclusory, speculative, or unexplained. (See *Jennings v. Palomar Pomerado Health Systems, Inc.* (2003) 114 Cal.App.4th 1108, 1117.)

Counterbalanced against Molina's conclusory evidence is that offered by the City. That evidence showed: that on occasion Molina requested and was provided additional staff for discrete projects (Klima Decl., p. 2; Lopez Decl., pp. 2-3); that the city treasurer now has his own budget and that the amount of that budget, $1,000, was determined based on Molina's expenditures over the past three years (Klima Decl., p. 2; Alomeri Decl., pp. 13-14); that Molina was advised that he could request money beyond his budget (Klima Decl., p. 3); that Molina's ability to receive City money, control the accounts into which the money is deposited, and access to external online banking platforms has not changed (Alomeri Decl., pp. 7-8); and that Molina did not request information about how he could hire a deputy city treasurer (Naveau Decl., p. 7).

The court finds that the above-cited evidence of the City has the greater persuasive weight when compared to the conclusory evidence offered by Molina. Therefore, the as-applied challenge to Section 9 of Ordinance No. 2977 is without merit.

8. *Transfer of Duties Described in Government Code section 41003: Ordinance No. 2977, Sections 11 and 14*

Molina contends that the City has improperly transferred to the assistant city treasurer duties vested in the city treasurer pursuant to Government Code section 41003. That statute provides: "The city treasurer shall pay out money only on warrants signed by legally designated persons." As discussed above (see Part 4(a), *supra*), this statute does not establish in the city treasurer the authority to determine who are "legally designated persons." Rather, the duty is largely ministerial: to pay properly issued warrants.

According to Molina, the City abridged this duty by enacting Ordinance No. 2977. Section 11 of Ordinance No. 2977 provides two principal directives. First, it recognized that the

city treasurer holds all statutory duties that are vested in a city treasurer of a general law city except those which the City may assign to another City employee by ordinance or resolution. Second, it assigned all of the duties described in Government Code section 41003 to the assistant city treasurer. Thus, Section 11 of the ordinance, read as a whole, makes clear that the city treasurer is not intended to have any authority under Government Code section 41003.

Section 14 of Ordinance 2977 provides, in essence, that warrants would be presented to the assistant city treasurer before being paid by the finance director. Thus, Sections 11 and 14 of the ordinance, read together, effectively removed the city treasurer's authority to "pay out money" on warrants as referenced in Government Code section 41003.

The City contends, among other things, that it may transfer these responsibilities to the assistant city treasurer pursuant to Government Code section 53910. That section provides that "[i]n addition to any other provision of law for the issuance and payment of warrants of any . . . city . . . the governing body thereof . . . may by resolution authorize practices with respect to . . . payment of warrants it deems convenient, efficient and in the public interest, conforming substantially to those practices specified in [other provisions of the Government Code]."

Molina contends Government Code section 53910 cannot apply to a city treasurer's duty to pay warrants because that statute "gives no indication that it should be interpreted to repeal" Government Code section 41003. (Molina Reply, p. 7.) But the issue is not one of repeal if the statutes may be harmonized. The opening language of Government Code section 53910 states that the provision is "[i]n addition to any other law." This language is similar to the familiar statutory phrase, "notwithstanding any other provision of law." " 'This phrase has a special legal connotation; it is considered an express legislative intent that the specific statute in which it is contained controls in the circumstances covered by that statute, despite the existence of some other law which might otherwise apply to require a different or contrary outcome.' [Citation.]" (*In re Summer H.* (2006) 139 Cal.App.4th 1315, 1328.)

Thus, Government Code sections 41003 and 53910 may be reconciled. The latter section controls despite the existence of the former. Therefore, the City could properly establish practices with respect to the issuance and payment of warrants that differed from those created

by Government Code section 41003. As a result, Molina's challenge to Section 11 of Ordinance 2977 is without merit.

9. Transfer of Duties to Director of Finance: Section 2-44(C) of Ordinance 2643

Molina asserts that his statutory duty to make monthly financial reports has been negated by the City. This duty, he contends, is vested in the city treasurer pursuant to Government Code section 41004, which states in relevant part: "Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund balances."

The City admits that it does not make available to Molina the data needed to prepare monthly written reports and accountings of receipts, disbursements, and fund balances. (Exh. 17, p. 9.) It contends that the financial reporting duties described in Government Code section 41004 were transferred to the director of finance under a 2004 ordinance. Specifically, section 2-44(C) of Ordinance No. 2643 provides, "Pursuant to Government Code section 34004, the duties imposed on the city treasurer by Government Code section 41001 are transferred to the director of finance." (See Exhs. 6, 92.) Therefore, the City reasons, Molina is not entitled to financial information needed to prepare monthly financial reports because the city treasurer has no duty to report.

Although Molina has generally challenged the elimination of some of his responsibilities under the two resolutions and one ordinance identified in his amended petition, the operative petition seeks no relief as to Ordinance No. 2643. In his reply brief, Molina requested leave to amend his petition to seek a determination that Section 2-44(C) of Ordinance No. 2643 is unenforceable. The City opposed the motion to amend asserting that the motion was untimely and that the amendment would be prejudicial.

The ordinance that is the object of the proposed amendment was included in Molina's moving exhibits (see Exh. 6), although it was not analyzed by Molina in his opening brief. A copy of the same ordinance was also included in the City's evidence. (See Exh. 92.) The City discussed Section 2-44(C) of that ordinance in its opposition brief. It argued that by enacting that earlier ordinance, the City had properly transferred to the director of finance the reporting

duties otherwise assigned to a city treasurer under Government Code section 41004 and, therefore, Molina's challenge to the 2020 legislative acts would not restore those reporting duties.

The rules governing the amendment of pleadings during trial are well established. A court, "at any time before or after commencement of trial, in the furtherance of justice, and upon such terms as may be proper, may allow the amendment of any pleading." (Code Civ. Proc., § 576.) "Generally, leave to amend should be liberally granted." (*Miles v. City of Los Angeles* (2020) 56 Cal.App.5th 728, 739.) However, the liberal policy favoring leave to amend applies where the opposing party will not be prejudiced by the amendment. (*Ibid*; also see *Doe v. Los Angeles County Dept. of Children & Family Services* (2019) 37 Cal.App.5th 675, 689.) " '[A]mendments of pleadings to conform to the proofs should not be allowed when they raise new issues not included in the original pleadings and upon which the adverse party had no opportunity to defend.' [Citation.]" (*Trafton v. Youngblood* (1968) 69 Cal.2d 17, 31.)

An unwarranted or unexplained delay in bringing a motion for leave to amend during trial is a ground for denying the motion, even if the amendment is otherwise proper. (*Doe v. Los Angeles County Dept. of Children & Family Services, supra,* 37 Cal.App.5th at p. 689 ["Unexplained delays in seeking leave to amend is a valid reason to deny amendment"]; *Eng v. Brown* (2018) 21 Cal.App.5th 675, 708 [motion properly denied when "amendment was presented with a years-long unexcused delay"]; *P&D Consultants, Inc. v. City of Carlsbad* (2010) 190 Cal.App.4th 1332.)

Here, the attorney declaration filed with Molina's reply brief does not address the motion for leave to amend. Specifically, Molina does not explain why the proposed amendment was not sought earlier. One would expect that Molina, now in his second term as city treasurer, would be aware of the 2004 ordinance assigning his reporting duties to the director of finance. And, indeed, Molina included a copy of the ordinance with his moving exhibits, so plainly he was aware of its existence prior to trial.

Although delay in seeking an amendment is important, a chief consideration on any motion to amend is prejudice to the opposing party. Here, the City contends that it will be

prejudiced by the late amendment. Typically, issues raised for the first time in a reply may be deemed forfeited, as considerations of due process require the opposing party have an opportunity to respond. But here, the issue of the effect of Ordinance No. 2643 was initially raised and discussed by the City. The City argued in its opposition papers and trial brief that Molina's petition should be denied in part because the city treasurer's reporting duties had already been transferred to the director of finance through the 2004 ordinance. (See Opp., p. 23; see City Trl. Brief, p. 4.) Moreover, the City argued in both briefs that it could transfer the city treasurer's reporting duties under Government Code section 41004 by the authority granted to the city council under Government Code section 34004. It also discussed the application of Government Code section 34004 in other contexts in its opposition brief. (See Opp., p. 18.) In addition, Government Code section 34004 was discussed extensively by both sides at the hearing on the petition. Finally, the City did not request a continuance of the hearing to provide further evidence or briefing in light of Molina's motion to amend, which it knew of at the outset of the hearing.

For these reasons, the court finds that the City is not prejudiced by the amendment, and the motion for leave to amend is granted. The first amended petition shall be deemed amended to pray for a judicial determination that Section 2-44(C) of Ordinance No. 2643 is invalid and that any writ that issues shall also restrain the City from enforcing that section. The court next addresses the substantive question raised by the amendment: May the City transfer from the city treasurer to the director of finance the monthly reporting duties described in Government Code section 41004?

The City answers that question in the affirmative, relying on Government Code section 34004. That statute states, as relevant here:

> "Where any duty is imposed upon a municipal officer by any law of this state . . . the governing body of a city may, by ordinance, impose such duty or a portion thereof upon such other officer of such city as is charged . . . by applicable general law with the performance of duties of the same character in that city."

The City contends that this provision allows it to transfer the monthly financial reporting

duties otherwise vested in a city treasurer under Government Code section 41004 to another City employee with comparable responsibilities; to wit: the director of finance.

Molina disputes this contention. He argues that Government Code section 34004 is inapplicable to these facts. First, he asserts that an elected city treasurer is not a "municipal officer" within the meaning of the section. He argues that it is "unlikely that the Legislature intended section 34004 to be used by a city to sidestep the vote of the city's electorate." (Reply, p. 10.) Molina's first argument fails to persuade.

Government Code section 36501 identifies a city treasurer as, per the heading of the statute, one of a general law city's "governing officers." There is "no doubt" that the position of city treasurer is an office. (36 Ops. Cal. Atty. Gen. 252; also see *Dibb v. County of San Diego* (1994) 8 Cal.4th 1200, 1212). A city treasurer is, therefore, an "officer" of a general law city. A general law city is a municipality (generally see *Martin v. Superior Court* (1991) 234 Cal.App.3d 1765, 1768). It follows that a general law city treasurer is a "municipal officer." Molina's offered definition of "municipal officer" would appear to read into the phrase a word the Legislature did not use: "elected." Therefore, the court concludes that a city treasurer of a general law city is a "municipal officer" within the meaning of Government Code section 34004.

Molina's second argument is that Government Code section 34004 "only allows a city council of a general law city to transfer the statutory duties of one city office to another city officer where the city official to whom the duties are to be transferred already is charged 'by applicable general law with the performance of duties of the same character in that city.' " (Reply, pp. 10-11, 13.) He contends the director of finance is not "charged . . . by applicable general law" with "duties of the same character" as a city treasurer. (Reply, p. 13.)

At the hearing on the petition, counsel for the City argued that subdivision (f) of Government Code section 36501 is a "general law" that establishes the duties of a director of finance that are of the "same character" as a city treasurer. The court finds this contention unpersuasive.

Government Code section 36501 provides in relevant part, "The government of a general law city is vested in: [¶] (f) Any subordinate officers and employees as provided by law." The

City does not assert that its director of finance is a "subordinate officer." Rather, the director of finance is a city employee. Such a city employee is not "charged" with any duty under subdivision (f) of Government Code section 46501. Rather, that subdivision states that governmental power may be vested in employees of a general law city "as provided by law." The City's argument is, therefore, circular in its logic: The requirement that there be "applicable general law" imposing duties of an identifiable nature cannot be satisfied by pointing *solely* to a statute empowering city employees to act "as provided by law." Neither statute describes the responsibilities of that employee. Without some way to identify the duties of such a city employee, it is impossible to determine whether those duties are "of the same character" as those assigned to the person from whom those duties would be transferred. Thus, the court concludes that Government Code section 46501 is not the type of "general law" contemplated in Government Code section 34004.

Although the court finds the City's argument unpersuasive, it concludes that Government Code section 34004 is applicable.

The Government Code expressly recognizes that a general law city may, but is not required to, create the office of director of finance. (E.g., see Gov. Code, § 37209, § 40805.5.) This court found no statute that specifically set forth the duties of a director of finance, when such an office is created. However, the Government Code authorizes a city council to, by ordinance, transfer certain financial and accounting duties otherwise vested in a city clerk to the director of finance. (*Ibid.*) In that instance, the city council shall "define" the "powers and duties" of the director of finance by ordinance. (Gov. Code, § 40805.5.) A city clerk's duty to act as the "accounting officer of the city" may be transferred by ordinance the director of finance. (*Ibid*; Gov. Code, § 40802.) In addition, the responsibility of a city clerk to publish a summary of the city's financial report may be transferred to the director of finance. (*Ibid.*)

These citations must be considered in the framework presented by Government Code section 34004; that is, are these sections "general law" that confer on a general law city's director of finance "duties of the same character" as the reporting duties the City has purportedly removed from its city treasurer? The court concludes they are. These Government Code

sections are undeniably part of the "general law," and the reporting duties of a city treasurer, while not identical to the financial reporting duties of a city clerk (transferable to a director of finance), are similar enough to be "of the same character."

One treatise has summarized a general law city clerk's financial reporting duties this way:

> "The clerk is also the accounting officer of a general-law city. As such, the clerk must maintain records readily reflecting the financial condition of the city, furnish an annual financial report to the state controller, and publish or post a summary of that report in a prescribed manner and within a prescribed time after the close of the fiscal year for which the report is compiled."

(45A Cal. Jur. 3d Municipalities § 398, footnotes omitted.)

By comparison, the financial reporting obligation of a city treasurer under Government Code section 41001 is to, at least monthly, submit a "written report and accounting of all receipts, disbursements, and fund balances."

These two sets of responsibilities – those of a city clerk, on one hand, and those of a city treasurer, on the other -- are similar, related, and "of the same character." Inasmuch as these duties of a city clerk may be transferred to a director of finance, they are by operation of general law also the duties of a director of finance.

For this reason, the court finds that the City acted within the legislative authority granted to it under Government Code section 34004 when it transferred the financial reporting duties described in Government Code section 41004 from the city treasurer to its director of finance. Therefore, Molina has not established that Section 2-44(C) of Ordinance No. 2643 is invalid.

Conclusion

The petition is denied.

This shall constitute the court's tentative decision. The tentative decision is not binding on the court (see Calif. Rules of Ct., rule 3.1590, subd. (b)), and the parties may file objections to it within 15 days of the date this order is deposited into the mail. If no objection is served or if no change is made to this tentative decision, it shall become the court's statement of decision at

the time the judgment is entered. (See *El Dorado County Deputy Sheriff's Assn. v. County of El Dorado* (2016) 244 Cal.App.4th 950, 954.)

If no objection is filed within the time prescribed, counsel are directed to meet and confer regarding a proposed judgment, which is to be lodged within ten days after the expiration of the objection period.

Date: January 5, 2023

MARK S. BORRELL
Judge of the Superior Court

PROOF OF SERVICE
CCP § 1012, 1013a (1), (3) & (4)

STATE OF CALIFORNIA)
COUNTY OF VENTURA) ss.
)

Case No: 56-2020-00541689-CU-PT-VTA
Case Title: Molina v. Nguyen, et al.

I am employed in the County of Ventura, State of California. I am over the age of 18 years and not a party to the above-entitled action. My business address is 800 Victoria Avenue, Ventura, CA 93009.

On the date set forth below, I served the within:

TENTATIVE DECISION

on the following named parties:

****SEE ATTACHED SERVICE LIST****

☒ **BY MAIL:** I caused such envelope to be deposited in the mail at Ventura, California. I am readily familiar with the court's practice for collection and processing of mail. It is deposited with the U.S. Postal Service on the dated listed below.

☐ **BY FACSIMILE:** I caused said document(s) to be sent via facsimile to the interested party at the facsimile number set forth above from telephone number (805) _____.

☐ **BY ELECTRONIC MAIL:** I caused said document(s) to be sent via email to the interested parties at the email addresses set for above.

I declare under penalty of perjury that the foregoing is true and correct and that this document is executed on January 6, 2023, at Ventura, California.

By: Tammy Brantner
Tammy Brantner, Judicial Secretary

SERVICE LIST
Case No: 56-2020-00541689-CU-PT-VTA
Case Title: Molina v. Nguyen, et al.

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Filed 8/7/24 Molina v. Nguyen CA2/6 (unmodified opinion)

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

PHILLIP MOLINA, as City Treasurer, etc., Plaintiff and Appellant, v. ALEXANDER NGUYEN, as City Manager, etc. et al., Defendants and Respondents.	2d Civ. No. B327286 (Super. Ct. No. 56-2020-00541689-CU-PT-VTA) (Ventura County)

The City of Oxnard (City) is locked in a dispute with its elected treasurer, Phillip Molina. The City abolished his "administrative duties" and took other actions to diminish the duties of his office and substantially reduce his compensation. Molina petitioned the trial court for a writ of mandate to void the City's actions, alleging the actions violated sections of the

Government Code[1] that govern the treasurer's duties in general law cities. The court denied the petition. We reverse.

Some History for Context

At one time, Molina was an employee for the City. He served as the Director of Finance and Administrative Services. The City fired him. The parties disagreed on the reasons for his termination. Molina asserts the City fired him for statements he made that "raised the possibility that members of the Oxnard City Counsel engineered a 'sweetheart deal' with favored contractors at taxpayers' expense." (*Molina v. Board of Administration, etc.* (2011) 200 Cal.App.4th 53, 56 & fn. 2.) Molina sued the City in federal court for wrongful termination in violation of his constitutional right to freedom of speech. (*Id.* at p. 56, fn. 2.) The parties settled the case with the City paying Molina $875,000 for wrongful termination.

Thereafter, Molina was elected the City's treasurer. The City is a general law city. Its elected treasurer is governed by the Government Code and local ordinances permitted by the Government Code.

The City then drafted a series of ordinances that drastically reduced Molina's duties and compensation. The City argues it may do so through a labor-intensive analysis of Government Code sections. The trial court ruled that the City's motivation for its actions is strictly a matter of statutory construction. In other circumstances this could be a reasonable analytic approach. Here, we disagree with this conclusion. The City's actions drastically reduced the duties of the elected treasurer. A city

---

[1] All statutory references are to the Government Code unless otherwise indicated.

treasurer deprived of the office's duties is tantamount to no treasurer. The City may not through legerdemain un-elect the office of city treasurer and defeat the choice of the voters.

We offer our analysis of the trial reasoning for possible review.

FACTS

The City has an elected treasurer (§ 36502). Molina was first elected treasurer in 2016 for a four-year term beginning January 1, 2017. When Molina began his first term, the treasurer's office had 19 full-time employees and an annual budget of approximately $3 million.

In October 2019, the City placed Molina on administrative leave. The City then passed a series of resolutions or ordinances to remove administrative duties from the treasurer and place them elsewhere. Having eliminated the treasurer's administrative duties, the City defunded the treasurer's office, shifted Molina's 19-member staff to a newly created department of billing and licensing and reduced his salary from a range of $114,656.88 to $157,652.98 to a fixed $20,412.08, the same salary as City council members receive. In spite of the City's actions, Molina was reelected to a four year term as treasurer in 2020.

Procedure

In January 2022, Molina filed a petition for a writ of mandate challenging the City's resolutions removing his administrative duties and reducing his salary. Molina claimed the resolutions violate statutes governing the duties of the treasurer. Molina challenges the resolutions removing his administrative duties. His challenge to the resolution reducing his salary is as applied. The trial court concluded there is no

conflict between the resolutions and the governing statutes and denied Molina's petition.

DISCUSSION

I. Standard of Review

In traditional mandate (Code Civ. Proc., § 1085), the trial court determines whether the agency's decision was arbitrary, capricious, lacking in evidentiary support, contrary to public policy, unlawful, or procedurally unfair. (*Nowicki v. Contra Costa County Employees' Retirement Assn.* (2021) 67 Cal.App.5th 736, 746.) Our review applies the same standard as the trial court. (*Ibid.*) We independently review legal issues, and to the extent there are disputed questions of fact, we apply the substantial evidence standard. (*Ibid.*)

A facial challenge to a statute or ordinance considers only the text of the measure itself. (*Tobe v. City of Santa Ana* (1995) 9 Cal.4th 1069, 1084.) A challenge to a statute or ordinance as applied is a challenge to the validity of a measure to an individual or class of individuals. (*Ibid.*) Thus, because a facial challenge presents only a question of law, our review is de novo. To the extent a challenge as applied involves issues of disputed facts, we apply the substantial evidence standard to the determination of facts. The party challenging the statute or ordinance has the burden of proving the measure is invalid. (*Building Industry Assn. of Bay Area v. City of San Ramon* (2016) 4 Cal.App.5th 62, 90.)

II. Background

Cities are classified as "general law cities" – cities organized under general law of California – or "charter cities" – cities organized under a charter. (*City of Orange v. San Diego County Employees Retirement Assn.* (2002) 103 Cal.App.4th 45,

52.) The City is a general law city. The powers of a general law city are only those powers expressly conferred upon it by the Legislature, and such powers as are necessarily incident to those expressly granted or essential to the declared object and purposes of the municipal corporation. (*Ibid.*) The powers of a city are strictly construed so that any reasonable doubt concerning the exercise of a power is resolved against the corporation. (*Ibid.*) A local ordinance in conflict with state law is void. (*Morehart v. County of Santa Barbara* (1994) 7 Cal.4th 725, 747.)

III. Conflict With State Law

(a)

Molina contends the ordinance transferring the power to collect license fees to the assistant city treasurer conflicts with section 41005. Section 41005 provides: "The City treasurer shall perform duties relative to the collection of city taxes and license fees as are prescribed by ordinance."

The City argues section 41005 gives it the power to prescribe the treasurer's duties by ordinance. In other words, the City reads the phrase "as are prescribed by ordinance" to modifying duties. Molina argues "as are prescribed by ordinance" modifies "city taxes and license fees," but not "duties."

Molina relies on "the last antecedent" rule of construction: qualifying words or phrases are applied to the words or phrases immediately preceding, and not to others more remote. (*White v. County of Sacramento* (1982) 31 Cal.3d 676, 680.) But as beneficial as rules of construction can be, they are not rules of law. They do not dictate a result when another, more reasonable, interpretation can be made.

The City points out that all city taxes and license fees are prescribed by ordinance. Molina points to none that are not

prescribed by ordinance. Thus "as are prescribed by ordinance" is surplusage if it modifies the City's taxes and license fees. We avoid construction that makes some words surplusage. (*Dyna-Med, Inc. v. Fair Employment & Housing Com.* (1978) 43 Cal.3d 1379, 1387.) But the City's argument simply substitutes its rule of construction for Molina's rule of construction.

The trial court concluded Molina's interpretation of section 41005, that only the treasurer can collect city taxes and license fees, conflicts with section 41007. Section 41007 provides: "The chief of police shall perform any license fee and tax collection services prescribed by ordinance."

Molina does not contend that only the treasurer can collect city taxes and fees. Molina concedes that the chief of police can also collect taxes and fees. He points out that the assistant city treasurer, in whom the ordinance places that power, is neither the treasurer nor the chief of police.

The best guide to the meaning of section 41005 is its words. It does *not* say "the city treasurer shall perform duties . . . *unless* otherwise prescribed by ordinance." It simply says, the duties relative to the collection of taxes and fees prescribed by the ordinance shall be performed by the treasurer. Nothing in section 41005 authorizes an ordinance transferring duties relative to the collection of taxes and fees to the assistant treasurer. Suffice it to note that the duty to collect taxes may be transferred by the ordinance to the chief of police does not authorize these duties to be transferred to the assistant treasurer.

The City relies on section 34004, but it is of no help to the City. It provides, in part: "Where any duty is imposed upon a municipal officer by any law of this State or any rule or

regulation adopted under the authority of any such law the governing body of a city may, by ordinance, impose such duty or a portion thereof upon such other officer of such city as is charged under the charter of that city, or by applicable general law with the performance of duties of the same character in that city."

Under section 34004, a duty imposed on a municipal officer may only be transferred to another officer of the city who it "charged by applicable general law" with "duties of the same character." An assistant treasurer is not charged by applicable general law with any duty of the same character as license fee and tax collection. If anything, section 34004 supports Molina's position that the duties of the treasurer may not be transferred to the assistant treasurer.

(b)

Moving from license fees to warrants, Molina contends the City's ordinance transferring the treasurer's duty under section 41003 to the assistant treasurer is invalid.

Section 41003 provides: "The city treasurer shall payout money only on warrants signed by legally designated persons." The City transferred that duty of the same character to the assistant treasurer pursuant to section 34004.

Section 34004 allows a transfer of duties to another officer of a city "as is charged . . . by applicable general law with the performance of duties of the same character in that city." The assistant treasurer is not charged with any duties of the same character by the applicable general law. Although it may seem reasonable to assume otherwise, these are the words of the statute.

But section 53910 provides, in part: "In addition to any other provision of law for the issuance and payment of warrants

of any county, city and county, city, district, or other political subdivision of the state, the governing body thereof, or, in the case of school districts not issuing their own warrants, the governing body of the appropriate issuing officer, may by resolution authorize practices with respect to form, issuance, delivery, endorsement and payment of warrants it deems convenient, efficient and in the public interest . . . ."

The phrase in section 53910, "[i]n addition to any other provision of law for the issuance and payments of warrants," necessarily applies to section 41003. Arguably section 53910 allows the City to establish its own procedure for the payment of warrants. That would include transferring the duties provided in section 41003 to the assistant treasurer.

Molina points out section 53910 is not limited to cities. Molina argues that if the Legislature intended section 53910 to trump section 41003, it either would have used "notwithstanding" or amended section 41003.

But section 53910 by its terms applies to cities. By stating section 53910 applies "[i]n addition to any other provision of law," the Legislature showed its intent that the section should apply globally, including to section 41003. The Legislature was not required to use the term "notwithstanding" or expressly amend section 41003.

(c)

Molina contends the portion of the ordinance transferring his duties under section 41004 to the director of finance is invalid.

Section 41004 provides: "Regularly, at least once each month, the city treasurer shall submit to the city clerk a written report and accounting of all receipts, disbursements, and fund

balances. The city treasurer shall file a copy with the legislative body."

Section 41004 places the duty to provide a written report and accounting on the treasurer, not the director of finance. Again the City relies on section 34004 authorizing a transfer of the treasurer's duties. But section 34004 allows a transfer of duties only to an officer "charged by applicable . . . general law" with duties of the same character. The City points to no applicable general law that charges the director of finance with duties of the same character as the treasurer's separating duty under section 41004.

The City's reliance on sections 40802 and 40805.5 is of no avail. Section 40802 provides: "The city clerk is the accounting officer of the city and shall maintain records readily reflecting the financial condition of the city."

Section 40805.5 provides: "The financial and accounting duties imposed upon the city clerk by Sections 40802 through 40805 may be transferred to a director of finance when such office has been established and the powers and duties thereof defined by ordinance."

As Molina points out, neither section 40802 nor section 40805.5 have a reporting requirement. A report on the City finances by a treasurer who is directly answerable to the voters is not the same as a report by the director of finance who is answerable to other city officials. The treasurer is independent and can provide a check on other city officials, including the City counsel and the director of finance.

(d)

Molina contends the portion of the City's ordinance removing the treasurer from those authorized to sign warrants

and other financial instruments conflicts with his statutory duties to receive and safely keep all monies the treasurer receives (§ 41001), to comply with all laws governing the deposit and securing of public funds and the handling of trust funds (§ 41002, subd. (a)) and pay out money only on warrants signed by legally designated persons (§ 41003).

But none of the statutes on which Molina relies provide that the treasurer must be one of the persons legally designated to sign warrants and financial instruments. Section 37203 provides: "Upon allowing a demand or approving a register of audited demands, the mayor shall draw a warrant or warrants upon the city treasurer specifying the purpose for which drawn and the fund from which payment is to be made. The city clerk shall countersign the warrant. The legislative body, by ordinance or resolution, may prescribe an alternative method of drawing warrants and checks."

Section 37203 provides that the mayor shall draw the warrant and the city clerk shall countersign the warrant. Nothing in the section requires the treasurer to sign the warrant. The section expressly authorizes the city's legislative body to designate the persons who can sign warrants and checks.

(e)

Molina contends that a portion of the City's ordinance deleting a list of the treasurer's duties the City designates as administrative conflicts with state law. But an ordinance that simply deletes a list of duties may not conflict with state law.

The duties mandated by state law remain notwithstanding their deletion by the ordinance. For example, one of the duties deleted by the ordinance is to "[p]erform such duties relative to the collection of City taxes and license fees as are prescribed by

ordinance." That is a duty mandated by section 41005. The deletion of that duty by ordinance does not nullify the statutory duty to collect city taxes and license fees.

DISPOSITION

The Government Code calls for an elected treasurer. Molina was duly elected. The ordinances as a whole have the intent and effect of removing Molina from his office. For this reason, we reverse. All the challenged ordinances are void and Molina's duties as treasurer are restored. Molina's salary is restored to its previous compensation, including restoration of compensation withheld pending resolution of this case.

The judgment is reversed. Costs on appeal are awarded to appellant.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

YEGAN, J.

BALTODANO, J.

Mark S. Borrell, Judge

Superior Court County of Ventura

Norman Dowler and Michael G. Walker for Plaintiff and Appellant.

Kenneth Rozell, Chief Assistant City Attorney and Jennie M. Kelly, Assistant City Attorney; Richards, Watson & Gershon and T. Peter Pierce for Defendants and Respondents.

Filed 9/3/24 Molina v. Nguyen CA2/6

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

PHILLIP MOLINA, as City Treasurer, etc., Plaintiff and Appellant, v. ALEXANDER NGUYEN, as City Manager, etc. et al., Defendants and Respondents.	2d Civ. No. B327286 (Super. Ct. No. 56-2020-00541689-CU-PT-VTA) (Ventura County) ORDER MODIFYING OPINION AND DENYING REHEARING [NO CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on August 7, 2024, be modified as follows:

1. On page 2, the last sentence of the first full paragraph, the word "Counsel" is changed to "Council."

2. On page 3, the sentence immediately preceding the "FACTS" section, the word "court's" is inserted between the words "trial" and "reasoning" so that the sentence reads:

We offer our analysis of the trial court's reasoning for possible review.

3. On page 4, the first sentence under the "*II. Background*" section, the word "the" is inserted between the words "under" and "general" so that the sentence reads:

> Cities are classified as "general law cities" – cities organized under the general law of California – or "charter cities" – cities organized under a charter.

4. On page 6, the first full paragraph, both references to "section 41007" are changed to "section 41607."

5. On page 7, the first sentence of the first full paragraph, the word "it" is changed to "is."

6. On page 9, the last sentence of the fourth full paragraph, the word "counsel" is changed to "Council."

There is no change the judgment.

Respondents' petition for rehearing is denied.

GILBERT, P. J. YEGAN, J. BALTODANO, J.

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VENTURA SUPERIOR COURT
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01/29/2025
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Executive Officer and Clerk
Christine Holm

Ventura Superior Court transmitted through eFiling 01/21/2025 12:21:27 PM
RICHARDS WATSON GERSHON
ATTORNEYS AT LAW - A PROFESSIONAL CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF VENTURA

PHILLIP MOLINA, in his capacity as Treasurer of the City of Oxnard, Petitioner, v. ALEXANDER NGUYEN, in his capacity as City Manager of the City of Oxnard; CITY OF OXNARD, a California general law municipality, Respondents.	Case No. 56-2020-00541689-CU-PT-VTA **[REVISED PROPOSED] JUDGMENT** Judge: Hon. Mark S. Borrell Dept.: 40 [Exempt from filing fees pursuant to Govt. Code § 6103]

This matter came on for trial before this court on November 8, 2022, and December 6, 2022. Michael G. Walker of Norman Dowler, LLP appeared as attorney of record for petitioner Phillip Molina, in his capacity as Treasurer of the City of Oxnard (petitioner); Assistant City Attorney Jennie M. Kelly and Chief Assistant City Attorney Kenneth Rozell appeared as attorneys of record for respondents City of Oxnard and Alexander Nguyen, in his capacity as City Manager of the City of Oxnard (collectively, respondents). Judgment was entered on March 7, 2023. The judgment was appealed, and the Court of Appeal issued

its decision on August 7, 2024 (2d Civ. No. B327286), reversing the judgment. Review of the decision was sought, and the Supreme Court denied review on October 23, 2024. The matter now having returned to this court, this court, in accordance with the Court of Appeal's decision, enters judgment as follows:

1. The judgment entered on March 7, 2023, is vacated.
2. The petition for writ of mandate is granted.
3. City of Oxnard Ordinance No. 2977 is hereby declared void and unenforceable.
4. Section 2-44(C) of part 1 of City of Oxnard Ordinance No. 2643 is hereby declared void and unenforceable.
5. City of Oxnard Resolution No. 15,324 is hereby declared void and unenforceable.
6. City of Oxnard Resolution No. 15,325 is hereby declared void and unenforceable.
7. Petitioner's duties as city treasurer are restored, as specified below.
8. Petitioner's compensation is restored to his compensation as of December 2020 (prior to the City Council's adoption of its resolution declaring the results of the canvass of the returns for the November 2020 municipal election), retroactive to January 2021.
9. A writ of mandate shall issue commanding respondents to take the following actions:
   (1) Cease to enforce City of Oxnard Ordinance No. 2977.
   (2) Cease to enforce Section 2-44(C) of part 1 of City of Oxnard Ordinance No. 2643.
   (3) Cease to enforce City of Oxnard Resolution No. 15,324.
   (4) Cease to enforce City of Oxnard Resolution No. 15,325.
   (5) Restore to the city treasurer the following statutory duties:
      A. Receive and safely keep all money the treasurer receives. (Gov.

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Code § 41001.)

B. Deposit and secure public funds, and handle trust funds in his possession. (Gov. Code § 41002, subd. (a).)

C. Pay out money on warrants signed by legally designated persons. (Gov. Code § 41003.) The City may in its discretion establish its own procedure for the payment of warrants to the extent allowed by law. (Gov. Code § 53910.)

D. Submit to the city clerk at least once each month a written report and accounting of all receipts, disbursements, and fund balances; and file a copy of each report with the City Council. (Gov. Code § 41004.)

E. Duties relative to the collection of the city taxes and license fees prescribed by ordinance. (Gov. Code § 41005.) The City may in its discretion transfer those duties as authorized by law.

10. Respondents shall file a return to the Writ of Mandate no later than March 3, 2025.

11. Petitioner shall recover his costs.

Dated: 01/21/2025

Mark S. Borrell
Judge of the Superior Court

RICHARDS WATSON GERSHON
ATTORNEYS AT LAW - A PROFESSIONAL CORPORATION

PROOF OF SERVICE

Phillip Molina v City of Oxnard and Alexander Nguyen

Ventura County Superior Court Case No.: 56-2020-0541689
Court of Appeal Case No.: B327286

I, Marcella Correa, declare: I am a resident of the State of California and over the age of eighteen years and not a party to the within action. My business address is 1 Civic Center Circle, P.O. Box 1059, Brea, California 92822. My e-mail address is mcorrea@rwglaw.com. On January 21, 2025, I served the within document(s) described as:

[REVISED PROPOSED] JUDGMENT

on the interested parties in this action as stated below:

Michael G. Walker
NORMAN DOWLER LLP
840 Country Square Dr.
3rd Floor
Ventura, California 93003
mwalker@normandowler.com

Attorneys for Petitioner/Appellant, Phillip Molina

Stephen Fischer
OXNARD CITY ATTORNEY
Kenneth Rozell
CHIEF ASSISTANT CITY ATTORNEY
Jennie M. Kelly
ASSISTANT CITY ATTORNEY
305 West Third St., Ste. 100E
Oxnard, California 93030
jennie.kelly@oxnard.org

Attorneys for Respondents, City of Oxnard and Alexander Nguyen

[X] (BY E-MAIL) By transmitting a true copy of the foregoing document(s) to the e-mail addresses set forth above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 21, 2025, at San Dimas, California.

Marcella Correa

Marcella Correa

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Attorneys for Respondents
Alexander Nguyen and City of Oxnard

Ventura Superior Court transmitted through eFiling 01/21/2025 12:21:27 PM
RICHARDS WATSON GERSHON
ATTORNEYS AT LAW - A PROFESSIONAL CORPORATION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF VENTURA

PHILLIP MOLINA, in his capacity as Treasurer of the City of Oxnard, Petitioner, v. ALEXANDER NGUYEN, in his capacity as City Manager of the City of Oxnard; CITY OF OXNARD, a California general law municipality, Respondents.	Case No. 56-2020-00541689-CU-PT-VTA **[REVISED PROPOSED] WRIT OF MANDATE** Judge: Hon. Mark S. Borrell Dept.: 40 [Exempt from filing fees pursuant to Govt. Code § 6103]

THE PEOPLE OF THE STATE OF CALIFORNIA TO RESPONDENTS CITY OF OXNARD AND ALEXANDER NGUYEN, IN HIS CAPACITY AS CITY MANAGER OF THE CITY OF OXNARD:

Whereas judgment was entered on 01/29/2025, ordering that a writ of mandate issue from this Court,

You are commanded, following receipt of this Writ of Mandate, to do the following:

(1) Cease to enforce City of Oxnard Ordinance No. 2977.

(2) Cease to enforce Section 2-44(C) of part 1 of City of Oxnard Ordinance No. 2643.

(3) Cease to enforce City of Oxnard Resolution No. 15,324.

(4) Cease to enforce City of Oxnard Resolution No. 15,325.

(5) Restore to the city treasurer the following statutory duties:

A. Receive and safely keep all money the treasurer receives. (Gov. Code § 41001.)

B. Deposit and secure public funds, and handle trust funds in his possession. (Gov. Code § 41002, subd. (a).)

C. Pay out money on warrants signed by legally designated persons. (Gov. Code § 41003.) The City may in its discretion establish its own procedure for the payment of warrants to the extent allowed by law. (Gov. Code § 53910.)

D. Submit to the city clerk at least once each month a written report and accounting of all receipts, disbursements, and fund balances; and file a copy of each report with the City Council. (Gov. Code § 41004.)

E. Duties relative to the collection of the city taxes and license fees prescribed by ordinance. (Gov. Code § 41005.) The City may in its discretion transfer those duties as authorized by law.

You are further commanded to file in this Court a return to this Writ of Mandate no later than March 3, 2025 stating what you have done to comply.

[Court seal]

[Name of Court Clerk]

Brenda L. McCormick

Dated: 01/29/2025

By: Christine Holm
Deputy Clerk Christine Holm

RICHARDS WATSON GERSHON
ATTORNEYS AT LAW - A PROFESSIONAL CORPORATION

PROOF OF SERVICE

Phillip Molina v City of Oxnard and Alexander Nguyen

Ventura County Superior Court Case No.: 56-2020-0541689
Court of Appeal Case No.: B327286

I, Marcella Correa, declare: I am a resident of the State of California and over the age of eighteen years and not a party to the within action. My business address is 1 Civic Center Circle, P.O. Box 1059, Brea, California 92822. My e-mail address is mcorrea@rwglaw.com. On January 21, 2025, I served the within document(s) described as:

[REVISED PROPOSED] WRIT OF MANDATE

on the interested parties in this action as stated below:

Michael G. Walker
NORMAN DOWLER LLP
840 Country Square Dr.
3rd Floor
Ventura, California 93003
mwalker@normandowler.com

Attorneys for Petitioner/Appellant, Phillip Molina

Stephen Fischer
OXNARD CITY ATTORNEY
Kenneth Rozell
CHIEF ASSISTANT CITY ATTORNEY
Jennie M. Kelly
ASSISTANT CITY ATTORNEY
305 West Third St., Ste. 100E
Oxnard, California 93030
jennie.kelly@oxnard.org

Attorneys for Respondents, City of Oxnard and Alexander Nguyen

[X] (BY E-MAIL) By transmitting a true copy of the foregoing document(s) to the e-mail addresses set forth above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 21, 2025, at San Dimas, California.

Marcella Correa

Marcella Correa

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Ordinances and resolutions declared void by judgment and writ of mandate in *Molina v. Nguyen*

1. Ordinance No. 2977

2. Section 2-44(C) of part 1 of City of Oxnard Ordinance No. 2643 (i.e., Oxnard City Code Section 2-44(C))

3. Resolution No. 15,324

4. Resolution No. 15,325

ORDINANCE NO. 2977

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING AND ADDING PROVISIONS TO THE CITY CODE TO DESIGNATE THE ASSISTANT CITY TREASURER AS THE "COLLECTOR" OR "LICENSE COLLECTOR" FOR SPECIFIC PERMITTING AND LICENSING FUNCTIONS; AMENDING THE CITY CODE AND ORDINANCE NO. 2350 TO LIMIT CITY TREASURER DUTIES TO THAT POSITION'S STATUTORY DUTIES NOT OTHERWISE ASSIGNED TO THE ASSISTANT CITY TREASURER, AND TO CHANGE CITY TREASURER COMPENSATION AND BENEFITS EFFECTIVE WHEN THE CITY COUNCIL DECLARES THE RESULTS OF THE CANVASS OF THE RETURNS FOR THE NOVEMBER 2020 MUNICIPAL ELECTION; AND ADDING SECTION 2-187 REGARDING PAYROLL FUNCTIONS BEING MANAGED BY THE DIRECTOR OF HUMAN RESOURCES

THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1. Section 10-1(C) is added to the Oxnard City Code to read as follows:

"(C) LICENSE COLLECTOR - The Assistant City Treasurer or designee."

Section 2. Section 11-1(F) of the Oxnard City Code shall be amended to read as follows:

"(F) COLLECTOR - The Assistant City Treasurer or designee."

Section 3. Section 11-141 of the Oxnard City Code is amended to read as follows:

"Section 11-141. APPLICATIONS

The license collector shall provide each applicant for a dance permit with a form specifying the information required for the permit. The city shall begin processing an application when the completed form, the applicable fee, and documents required are provided to the license collector. <u>For purposes of this article, the Assistant City Treasurer or designee shall be the license collector."</u>

Section 4. Section 11-170(C) is added to the Oxnard City Code to read as follows:

"(C) LICENSE COLLECTOR - The Assistant City Treasurer or designee."

Section 5. Section 11-232(D) of the Oxnard City Code shall be amended to read as follows:

"(D) LICENSE COLLECTOR - The Assistant City Treasurer or designee."

Section 6. Section 11-261(D) of the Oxnard City Code shall be amended to read as follows:

"(D) LICENSE COLLECTOR - The Assistant City Treasurer or designee."

Section 7. Section 11-370(B) of the Oxnard City Code shall be amended to read as follows:

"(B) COLLECTOR - The Assistant City Treasurer or designee."

Section 8. Section 12-8 is added to the Oxnard City Code to read as follows:

"Section 12-8. DEFINITION OF LICENSE COLLECTOR.

For purposes of this Chapter, "License Collector" shall mean the Assistant City Treasurer or designee."

Section 9. Section 2-165 of the Oxnard City Code regarding the City Treasurer serving as the Department Head and administrative head of the City Treasurer Department is hereby repealed.

Section 10. Section 2-166 of the Oxnard City Code is amended to read as follows:

"Section 2-166. BENEFITS OF CITY TREASURER.

A. Until the City Council declares the results of the canvass of the returns for the November 2020 municipal election, the person occupying the city treasurer classification shall receive the same benefits as that person received as of the effective date of the ordinance that amended this section. Starting with the City Council declaring the results of the canvass of the returns for the November 2020 municipal election and continuing thereafter, the person occupying the city treasurer classification shall receive all benefits provided to the members of the City Council.

B. Notwithstanding the above, a person occupying the classification of city treasurer shall not be entitled to transfer to or be promoted or demoted to any other classification in the city service."

Section 11. Section 2-168 of the Oxnard City Code is amended to read as follows:

"Section 2-168. DUTIES OF CITY TREASURER.

The city treasurer shall perform such statutory duties as are assigned to the city treasurer of a general law city by the laws of the State and which are not assigned to another City employee by ordinance or resolution. Pursuant to Cal. Gov't Code Section 34004, the duties imposed on the city treasurer by Cal. Gov't Code Section 41003 are transferred to the assistant city treasurer."

Section 12. Section 2-169 of the Oxnard City Code is amended to read as follows:

"Section 2-169. COMPENSATION OF CITY TREASURER.

Until the City Council declares the results of the canvass of the returns for the November 2020 municipal election, the person occupying the city treasurer classification shall receive the same compensation as that person received as of the effective date of the ordinance that amended this section. Starting with the City Council declaring the results of the canvass of the returns for the November 2020 municipal election and continuing thereafter, the person occupying the city treasurer classification shall receive such compensation as determined by City Council resolution for that position."

Section 13. Section 2-184 of the Oxnard City Code is amended to read as follows:

"Section 2-184. PROCEDURE FOR PAYMENT OF DEMANDS, WARRANTS AND CHECKS.

The finance director shall prepare a written form of demand and proposed check for each approved invoice and claim. Supporting documents such as the purchase order, and invoice or claim for payment shall be attached thereto. Demands shall be individually audited by the finance director or designee, who shall certify as to the accuracy of each demand and the availability of funds for payment thereof. Such demands may be in the form of check-warrants and when approved by all officers as required by this code, shall be delivered to the assistant city treasurer. The assistant city treasurer shall subscribe a direction to the depository of funds to pay the funds to the order of the payee, which action shall convert the warrant, or demand, to a bona fide check."

Section 14. Section 2-186(B)(2) of the Oxnard City Code is amended to read as follows:

"(2) Such warrants, when presented to the assistant city treasurer, shall be paid by the finance director out of the fund therein designated if there be sufficient money in such fund for that purpose."

Section 15. Part 6 of Ordinance No. 2350 relating to the compensation of the city treasurer for statutory duties is hereby repealed effective as of the date that the City Council declares the results of the canvass of the returns for the November 2020 municipal election. Ordinance No. 2350 was adopted on December 6, 1994.

Section 16. Part 8 of Ordinance No. 2350 relating to the compensation of the city treasurer for administrative duties is hereby repealed effective as of the date that the City Council declares the results of the canvass of the returns for the November 2020 municipal election.

Section 17. Part 9 of Ordinance No. 2350 is hereby amended to read as follows:

"Part 9. The City Council, by resolution, may include the City Clerk classification as part of the management pay for performance system. The inclusion of the City Clerk classification in the management pay for performance system is limited to the evaluation and establishment of compensation of the City Clerk for performance of administrative duties."

Section 18. Part 10(B) of Ordinance No. 2350 is hereby amended to read as follows:

"B. The City Manager will establish the administrative functions of the City Clerk. These administrative functions are in addition to the statutory duties that are mandated by State law to be performed by the person elected as City Clerk in a general law city."

Section 19. Part 10(C) of Ordinance No. 2350 regarding the administrative duties of the City Treasurer is hereby repealed.

Section 20. Section 2-187 is added to the Oxnard City Code to read as follows:

"Section 2-187 - PAYROLL FUNCTIONS MANAGED BY DIRECTOR OF HUMAN RESOURCES.

Notwithstanding any language in this Division 5 to the contrary, the payroll functions of the City of Oxnard shall be delegated to and managed by the Director of Human Resources. The Budget and the General Accounting Divisions of the Finance Department will continue to have 'read-only access' to the payroll database and reports."

Section 21. If any subsection, sentence, clause, phrase or word of the Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

Section 22. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published a minimum of five (5) days before the City Council's adoption of the ordinance and within fifteen (15) calendar days of the adoption in a newspaper of general circulation published and circulated in the City; and shall post a certified copy of this Ordinance in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. 2977 was first read on May 5, 2020, and adopted on May 19, 2020 to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this 19th day of May, 2020 by the following vote:

AYES: Councilmembers Basua, Flynn, Lopez, Madrigal, Perello and Ramirez.

NOES: None.

ABSENT: Councilman MacDonald.

ABSTAIN: None.

Tim Flynn 5/19/20

Tim Flynn, Mayor

ATTEST:

Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

5/19/2020

Stephen M. Fischer, City Attorney

CITY COUNCIL OF THE CITY OF OXNARD

ORDINANCE NO. 2643

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING ARTICLE IV OF CHAPTER 2 OF THE CITY CODE

The City Council of the City of Oxnard does ordain as follows:

Part 1. Division 1 of Article IV of Chapter 2 of the Oxnard City Code is amended to read:

DIVISION 1. DIRECTOR OF FINANCE

Sec. 2-43. Creation.

There shall be a finance department, headed by a director of finance who shall supervise such employees as are necessary to carry out the functions and duties of the department.

Sec. 2-44. Financial and accounting duties.

(A) Pursuant to Government Code section 37209, the duties imposed on the city clerk by chapter 4, part 2, division 3, title 4 of the Government Code are transferred to the director of finance.

(B) Pursuant to Government Code section 40805.5, the financial and accounting duties imposed on the city clerk by Government Code sections 40802 through 40805 are transferred to the director of finance.

(C) Pursuant to Government Code section 34004, the duties imposed on the city treasurer by Government Code section 41004 are transferred to the director of finance.

(D) The powers and duties of the director of finance include centralizing fiscal and accounting duties; controlling inventory; supervising the license collector in the performance of duties enumerated in chapter 16; financial reporting; and assisting in budgeting.

(E) The director of finance shall promote, secure and preserve the financial and property interests of the city.

(F) The city manager may assign to the director of finance additional powers and duties not set forth herein.

Sec. 2-45. Bond.

The director of finance shall file with the city clerk a bond covering the faithful performance of his or her duties, in the penal sum of not less than $20,000. The bond shall conform to the provisions of chapter 3, division 4, title 1 of the Government Code. The premium on the bond shall be paid by the city.

Sec. 2-46. Fiscal year.

The fiscal year of the city shall begin on the first day of July and end on the last day of June of each calendar year.

Sec. 2-47. Budget.

(A) Before the beginning of each fiscal year for which the city council has not adopted a budget, the city manager shall submit to the city council a proposed operations and capital budget for the following fiscal year or for more than one of the following fiscal years.

(B) At a minimum, the proposed budget shall include:

(1) An itemized statement of estimated revenues from all sources for the year.

(2) An itemized statement of proposed expenditures for each department and division.

(3) A statement of the amount required for the payment of interest, amortization and redemption charges on the debt of the city.

(4) Provision for contingent expense.

(5) A general budget summary.

(6) A budget statement outlining the proposed financial plan for the year.

(7) The appropriations limit and the total annual appropriations subject to limitation as determined pursuant to division 9 of title 1 of the Government Code, commencing with section 7900.

(C) The city council shall hold a public hearing on the proposed budget, at which all interested persons may be heard. At the conclusion of the public hearing, the city council

may make changes to the proposed budget.

(D) The city council shall adopt a budget for the following fiscal year or for more than one of the following fiscal years. If the budget is not adopted on or before the beginning of such fiscal year, the proposed budget shall become effective without action by the city council.

(E) The city council may revise at any time an adopted budget or a proposed budget that became effective without action by the city council.

Sec. 2-48. Audit.

After the end of each fiscal year, the director of finance shall cause an audit of the city's financial reports for the previous fiscal year to be prepared promptly by a certified public accountant. Within a reasonable time, the director of finance shall present the audit to the city council at a public meeting.

Part 2. Divisions 2 through 5 of Article IV of the City Code are repealed. Division 6 is renumbered as Division 2.

Part 3. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation in the City. Ordinance No. 2643 was first read on January 6, 2004, and finally adopted on January 13, 2004, to become effective thirty days thereafter.

AYES: Councilmembers Lopez, Maulhardt, Pinkard, Zaragoza and Herrera.

NOES: None.

ABSENT: None.

Dr. Manuel M. Lopez, Mayor

ATTEST:

Jill Beaty for
Daniel Martinez, City Clerk

APPROVED AS TO FORM:

Paula Kembrell for
Gary L. Gillig, City Attorney

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 15,324

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AUTHORIZING CERTAIN PERSONS TO SIGN AND ENDORSE CHECKS AND DRAFTS AND INITIATE AND APPROVE ELECTRONIC BANK TRANSACTIONS FOR THE CITY OF OXNARD, ASSESSMENT DISTRICTS AND THE OXNARD COMMUNITY DEVELOPMENT COMMISSION SUCCESSOR AGENCY; AND AMENDING THE TITLE AND EXHIBIT B OF RESOLUTION NO. 10,820 REGARDING THE JOB SPECIFICATIONS FOR THE CITY TREASURER

The City Council of the City of Oxnard resolves as follows:

Section 1. In connection with funds, accounts payable, and payroll accounts of the City of Oxnard, assessment districts and the Oxnard Community Development Commission Successor Agency, the Assistant City Treasurer, acting together with the Chief Financial Officer or the Assistant Chief Financial Officer, are hereby authorized to sign all financial instruments drawn on any eligible depository and that each of the above persons, individually, may endorse all financial instruments for deposit to the credit of the City of Oxnard, assessment districts or the Oxnard Community Development Commission Successor Agency.

Section 2. In connection with funds, accounts payable, and payroll accounts of the City of Oxnard and all assessment districts, the Assistant City Treasurer, acting together with the Chief Financial Officer or the Assistant Chief Financial Officer, are hereby authorized to initiate and approve electronic bank transactions for the City of Oxnard, assessment districts or the Oxnard Community Development Commission Successor Agency.

Section 3. The signatures of the above authorized persons may be by facsimile signature. The Assistant City Treasurer is directed to be the custodian of and to control the use of the facsimile signature plates for such authorized persons.

Section 4. The above persons are authorized to execute those documents necessary to perform the acts authorized there.

Section 5. Resolution No. 10,456 adopted on September 15, 1992 is hereby repealed.

Section 6. The title of Resolution No. 10,820 is hereby amended to read as follows:

"RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD ESTABLISHING JOB SPECIFICATIONS FOR THE PERFORMANCE OF STATUTORY AND ADMINISTRATIVE DUTIES BY THE CITY CLERK AND STATUTORY DUTIES BY THE CITY TREASURER"

Section 7. Exhibit B to Resolution No. 10,820 is amended to delete pages 2 and 3 of the exhibit. The deleted page 2 of the Exhibit B of Resolution No. 10,820 has the heading

"ADMINISTRATIVE DUTIES", while the deleted page 3 of Exhibit B has the heading "QUALIFICATIONS – Administrative Duties".

Section 8. This resolution shall become effective upon its adoption.

PASSED AND ADOPTED THIS 5th day of May, 2020, by the following vote:

AYES: Councilmembers Basua, Flynn, Lopez, MacDonald, Madrigal, Perello and Ramirez.

NOES: None.

ABSENT: None.

ABSTAIN: None.

Tim Flynn 5/5/20
Tim Flynn, Mayor

ATTEST:

Michelle Ascencion
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:

5/5/2020
Stephen M. Fischer, City Attorney

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. 15,325

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING EXHIBIT A OF RESOLUTION NO. 15,242 AS IT RELATES TO THE SALARY RANGE FOR THE CITY TREASURER

WHEREAS, the City Treasurer is no longer performing the previously assigned administrative duties of that office; and

WHEREAS, because of the City Treasurer's reduced responsibilities, the City Council wishes to reduce the salary of the City Treasurer; and

WHEREAS, such reduction in salary, however, will not occur during the current term of the City Treasurer, but will go into effect at such time that the City Council declares the results of the canvass of the returns for the November 2020 municipal election.

The City Council of the City of Oxnard resolves as follows:

Section 1. Exhibit A of Resolution No. 15,242, as it relates to the salary range for the City Treasurer, is amended to read as follows:

Salary Grade	Classification Title	FLSA Status	Salary Range
7305	City Treasurer	Exempt	$114,656.88 – 157,652.98 (effective until the City Council declares the results of the canvass of the returns for the November 2020 municipal election).
1102	City Treasurer	Exempt	$20,412.08 (effective once the City Council declares the results of the canvass of the returns for the November 2020 municipal election).

Section 2. Except as specifically amended herein by this Resolution, all other provisions of Resolution No. 15,242 shall remain in full force and effect.

Section 3. This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED this 5th day of May, 2020, by the following vote:

YES: Councilmembers Basua, Flynn, Lopez, MacDonald, Perello and Ramirez.

NOES: Councilmember Madrigal.

ABSENT: None.

ABSTAIN: None.

Tim Flynn 5/5/20
Tim Flynn, Mayor

ATTEST:
Michelle Ascencion
Michelle Ascencion, City Clerk

APPROVED AS TO FORM:
5/5/2020
Stephen M. Fischer, City Attorney

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OXNARD AMENDING SPECIFIC PROVISIONS OF THE OXNARD CITY CODE TO TRANSFER THE DUTIES RELATING TO THE COLLECTION OF FEES AND TAXES FROM THE CITY TREASURER TO THE POLICE CHIEF, AND MODIFY THE PROCEDURE FOR THE PAYMENT OF DEMANDS, WARRANTS AND CHECKS SO THAT CERTAIN DUTIES HELD BY THE CITY TREASURER ARE TRANSFERRED TO THE ASSISTANT CITY TREASURER

WHEREAS, on August 7, 2024, the Second District Court of Appeal, Division Six, issued its opinion (the "Opinion") in the case of *Molina v. Nguyen, et al.* regarding the duties of the City Treasurer; and

WHEREAS, consistent with the Opinion and the final judgment and writ of mandate in this case (both entered on January 29, 2025), the City Council is taking specific actions to modify, amend and clarify specific duties of the City Treasurer going forward; and

WHEREAS, the Opinion stated that the duty to collect taxes may be transferred by ordinance to the chief of police; and

WHEREAS, pursuant to the provisions of Government Code Section 41607, "[t]he chief of police shall perform any license fee and tax collection services prescribed by ordinance"; and

WHEREAS, the Opinion also states that "Molina concedes that the chief of police can also collect taxes and fees"; and

WHEREAS, the judgment and the writ of mandate state that "[t]he City may in its discretion transfer those duties as authorized by law"; and

WHEREAS, consistent with the Opinion, the judgment and writ of mandate, and the provisions of state law, the duties to collect fees and taxes that currently reside with the City Treasurer are transferred to the Police Chief by this Ordinance; and

WHEREAS, the Opinion expressly authorized the City Council to designate the persons who can sign warrants and checks, and to establish its own procedure for the payment of warrants and checks; and

WHEREAS, Government Code Section 37203 provides that "[t]he legislative body, by ordinance or resolution, may prescribe an alternative method of drawing warrants and checks"; and

WHEREAS, Government Code Section 53910 provides that a governing body of a city "may by resolution authorize practices with respect to form, issuance, delivery,

endorsement and payment of warrants it deems convenient, efficient and in the public interest"; and

WHEREAS, the Opinion states that the City Council is authorized to transfer the duties provided in Government Code Section 41003 to the assistant city treasurer; and

WHEREAS, the judgment and the writ of mandate provides that "[t]he City may in its discretion establish its own procedure for the payment of warrants to the extent allowed by law"; and

WHEREAS, pursuant to the Opinion, the judgment and writ of mandate, and the provisions of state law, the City Council is amending specific portions of the Oxnard City Code's procedure for the payments of warrants and checks; and

WHEREAS, consistent with the Opinion, the judgment and writ of mandate, and state law, the City Council wishes to make these specific changes to the Oxnard City Code as specified in this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OXNARD DOES ORDAIN AS FOLLOWS:

Section 1. Consistent with the judgment and writ of mandate in the case of *Molina v. Nguyen, et al*, the following are hereby repealed: Ordinance No. 2977; Oxnard City Code Section 2-44(C), as adopted by Ordinance No. 2643 on January 13, 2004; Resolution No. 15,324 and Resolution No. 15,326.

Section 2. Section 10-1(C) is added to Oxnard City Code to read as follows:

"(C) LICENSE COLLECTOR - The police chief or designee."

Section 3. Section 11-1(F) of the Oxnard City Code is amended to read as follows:

"(F) COLLECTOR - The police chief or designee."

Section 4. Section 11-141 of the Oxnard City Code is amended to read as follows:

"Section 11-141. APPLICATIONS

The license collector shall provide each applicant for a dance permit with a form specifying the information required for the permit. The city shall begin processing an application when the completed form, the applicable fee, and documents required are provided to the license collector. For purposes of this article, the police chief or designee shall be the license collector."

Section 5. Section 11-170(C) of the Oxnard City Code is amended to read as follows:

"(C) LICENSE COLLECTOR - The police chief or designee."

Section 6. Section 11-232(D) of the Oxnard City Code is amended to read as follows:

"(D) LICENSE COLLECTOR - The police chief or designee."

Section 7. Section 11-261(D) of the Oxnard City Code is amended to read as follows:

"(D) LICENSE COLLECTOR - The police chief or designee."

Section 8. Section 11-370(D) of the Oxnard City Code is amended to read as follows:

"(B) COLLECTOR - The police chief or designee."

Section 9. Section 12-8 is added to the Oxnard City Code to read as follows:

"Section 12-8. DEFINITION OF LICENSE COLLECTOR.

For purposes of this Chapter, "License Collector" shall mean the police chief or designee."

Section 10. Section 2-184 of the Oxnard City Code is amended to read as follows:

"Section 2-184. PROCEDURE FOR PAYMENT OF DEMANDS, WARRANTS AND CHECKS.

A. The finance director shall prepare a written form of demand and proposed check for each approved invoice and claim. Supporting documents such as the purchase order, and invoice or claim for payment shall be attached thereto. Demands shall be individually audited by the finance director or designee, who shall certify as to the accuracy of each demand and the availability of funds for payment thereof. Such demands may be in the form of check-warrants and when approved by all officers as required by this code, shall be delivered to the assistant city treasurer. The assistant city treasurer shall subscribe a direction to the depository of funds to pay the funds to the order of the payee, which action shall convert the warrant, or demand, to a bona fide check.

B. The provisions of subsection A shall be deemed to transfer the duties prescribed in Government Code 41003 to the assistant city treasurer.

C. Government Code section 37203 expressly authorizes the City Council to designate the persons who may sign warrants and checks. The City Council provided this authorization pursuant to Resolution 15,784, as that resolution may be amended or renumbered from time to time."

Section 11. Section 2-186(B)(2) of the Oxnard City Code is amended to read as follows:

> "(2) Such warrants, when presented to the assistant city treasurer, shall be paid by the finance director out of the fund therein designated if there be sufficient money in such fund for that purpose."

Section 12. If any subsection, sentence, clause, phrase or word of the Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed and adopted this Ordinance, and each and all provisions hereof, irrespective of the fact that one or more provisions may be declared invalid.

Section 13. The City Clerk shall certify as to the adoption of this Ordinance and shall cause summary thereof to be published a minimum of five (5) days before the City Council's adoption of the ordinance and within fifteen (15) calendar days of the adoption in a newspaper of general circulation published and circulated in the City; and shall post a certified copy of this Ordinance in the office of the City Clerk, in accordance with Government Code Section 36933. Ordinance No. _____ was first read on _____, was adopted on _____ to become effective thirty (30) days thereafter.

PASSED AND ADOPTED this ____ day of ____, 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____
Luis Mc Arthur, Mayor

ATTEST:

_____
Luly A. Lopez, City Clerk

APPROVED AS TO FORM:

_____
Stephen M. Fischer, City Attorney

final version

Implementation of Specific Provisions of the Court of Appeal's Decision Regarding the City Treasurer

City Council
February 18, 2025

Kenneth Rozell, Chief Assistant City Attorney
Jennie Kelly, Assistant City Attorney

CITY OF OXNARD CALIFORNIA

Recommendation

That the City Council approve the first reading by title only and waive further reading of an ordinance entitled:

> **An ordinance of the City Council of the City of Oxnard Amending Specific Provisions of the Oxnard City Code to Transfer the Duties Relating to the Collection of Fees and Taxes from the City Treasurer to the Police Chief, and Modify the Procedure for the Payments of Demands, Warrants and Checks so that Certain Duties Held by the City Treasurer are transferred to the Assistant City Treasurer**

or

Alternatively, although not recommended by City staff, direct staff to return with the necessary proposed ordinance and resolution to reorganize and reinstate the duties of City Treasurer so the person in that position will serve as administrative head of staff now associated with the separate Division of Billing and Licensing and as a department head.

Executive Summary

In 2020, the City Council removed City Treasurer Phillip Molina's administrative functions after an independent investigator confirmed the complaints of City staff that Molina had (among other things):

1. Violated City's sexual harassment and anti-bullying policies by making inappropriate and impermissible comments regarding female employees' appearance, attire, and role within the workplace. Comments included statements laced with sexual innuendo and stereotypical comments such as suggesting to female employees that they "go home and cook dinner for their husbands."

2. Used "keyboard warfare" by sending misleading emails to the public to bully City employees and enhance his image at the expense of employees, and accused employees of misconduct with no basis in fact.

3. Accused and improperly investigated an employee for theft when no theft occurred.

4. Interfered with the investigation by sending emails to staff about the ongoing investigation and inappropriately discussing it with staff members.

Executive Summary

Molina sued the City and – in 2023 – the Superior Court ruled in favor of the City. Molina then appealed that decision and prevailed at the appellate court.

The appellate court decision and judgment provide a clear roadmap for actions that the City must take as well as a few options for the City as it relates to modifying the duties of the City Treasurer. City staff recommends that the City Council adopt an ordinance that makes these changes transferring the collector functions and the duties associated with warrants and checks – as it is legally allowed to do, consistent with the provisions of state law, the appellate decision and the judgment in the case.

City staff also believe that the recommended adoption of the ordinance is prudent and necessary based upon the findings made by the 2020 independent investigator discussed in more detail below.

Background

- Phillip Molina elected City Treasurer in November 2016, when the position had two separate and distinct functions – statutory duties and administrative duties.
  - **Statutory Duties**: Outlined in the California Government Code and do not require that a treasurer supervise employees or manage a department.
  - **Administrative Duties**: Assigned and managed by the City Manager.

- In 2016 just after his election as City Treasurer, Molina signed a letter that specifically informed him that City Manager Greg Nyhoff assigned all administrative duties and that these duties included management of the treasurer's department.
  - State law does not require that the City Treasurer perform these duties - instead they are assigned by City management.

Background

Misconduct Allegations and Investigation of City Treasurer Molina

- **December 2018**: Molina was reprimanded for improper email practices and violating the City's Code of Conduct but refused to comply with directives.

- **August 2019**: Employees accused Molina of harassment, bullying, and overstepping his role as City Treasurer, prompting an external investigation.

- **September 2019**: Despite being instructed not to interfere with the external investigation, Molina publicly named a complainant and held a staff meeting perceived by some as an act of intimidation. The independent investigator interviewed 41 employees and reviewed extensive documentation, but Molina refused to fully cooperate, refusing to be interviewed for longer than four hours.

Background

Investigation Findings

Investigator found Molina engaged in misconduct as to seven of the nine matters investigated based upon a preponderance of the evidence, including:

- Molina violated City's sexual harassment and anti-bullying policies by making inappropriate and impermissible comments regarding female employees' appearance, attire, and role within the workplace. These comments included statements laced with sexual innuendo and stereotypical comments such as suggesting to female employees that they "go home and cook dinner for their husbands."
- 17 of 19 Treasurer's Department employees confirmed Molina made inappropriate comments, and he admitted that he made many of the comments.
- He accused and improperly investigated an employee of theft when no theft occurred.
- Molina interfered with the investigation by sending emails to staff about the ongoing investigation and inappropriately discussing it with staff members.
- He used "keyboard warfare" by sending misleading emails to the public to bully City employees and enhance his image at the expense of employees, and accusing employees of misconduct with no basis in fact.
- He exceeded the scope of his position as Treasurer, injecting himself into issues involving both the Finance and Public Works Departments without the authority to do so.

Background

Steps Taken by City Council Following the Investigation

City Council took a series of actions on May 5, 2020, to clarify statutory duties of the City Treasurer and reassign administrative duties formally associated with the elected office of the City Treasurer.

- **Adopted Resolution No. 15,324**: Transferred signing authority from the City Treasurer to the Assistant City Treasurer (along with Chief Financial Officer or the Assistant Chief Financial Officer) so City Treasurer could no longer threaten to refuse to sign checks to pay the City's outstanding bills and payroll.
- **Adopted Resolution No. 15,325**: Effective after election results were declared in December 2020, reduced the City Treasurer's salary equal to that of the City Councilmembers, given the removal of his administrative duties.
- **Adopted Ordinance No. 2977**: On May 19, 2020, designated Assistant City Treasurer as City's collector and repealed City code sections that provided that the City Treasurer serve as the head of the City Treasurer's Office.
- **Adopted the FY 20-21 Budget**: On June 30, 2020, established a separate Department of Billing and Licensing that included the 19 positions and funding that was previously associated with the City Treasurer's Office in order to remove all supervisory duties from the City Treasurer.

Background

Litigation Filed

Molina subsequently filed a legal action on June 2, 2021 challenging City's actions. Judge Mark Borrell ruled in favor of the City and the City Manager on February 14, 2023.

Molina appealed the trial court's decision and on August 7, 2024, the appellate court issued its decision. In its unpublished opinion, the appellate court overturned Judge Borrell's decision.

City petitioned for further review by the California Supreme Court. After the court declined to review the case, the matter was sent back to the trial court for for the entry of the final judgment.

Judge Borrell subsequently entered judgment and writ of mandate in the case on January 29, 2025.

Discussion

Next Steps

While the court ruled in the judgment that specific ordinances and resolutions challenged by Molina were void, the appellate decision and the judgment provide a clear roadmap for specific actions that the City is authorized to take as it relates to modifying the duties of the City Treasurer in the future.

Discussion

Next Steps [*cont.*]

A. *<u>The Collector Duties</u>*

City has discretion to designate the Police Chief as the “collector” or “license collector” for a number of licensing and permitting functions, including the collection of city taxes and license fees. Government Code Section 41607 (based upon a law first enacted in 1883) provides the authority for the appellate court’s conclusion that an official other than the City Treasurer can fulfill these collector duties.

The assignment of such duties to the Chief of Police is prudent and necessary based upon the findings made by the independent investigator. Therefore, City staff recommend that the City Council adopt an ordinance assigning collector duties to the Chief of Police by amending various provisions of the Oxnard City Code relating to the “collector” and the “license collector”. The Chief of Police, or his designee, would then oversee the day-to-day activities of the existing professional City staff who currently provide these duties for the City.

Discussion

Next Steps [*cont.*]

B. *Duties Associated with Warrants and Checks*

Another duty at issue in the litigation is who would oversee the processing and payment of warrants and checks. The appellate court concluded that the transfer of these duties from the City Treasurer to another official was authorized by state law.

The court (citing Government Code Section 37203) stated: "'The legislative body, by ordinance or resolution, may prescribe an alternative method of drawing warrants and checks.'"

The court concluded: "...Nothing in this section [Government Code Section 37203] requires the treasurer to sign the warrant. The section expressly authorizes the city's legislative body to designate the persons who can sign warrants and checks."

In both the final judgment and writ of mandate issued in the case, the court stated: "The City may in its discretion establish its own procedure for the payment of warrants to the extent allowed by law. (Gov. Code § 53910.)"

Discussion

Next Steps

B. *Duties Associated with Warrants and Checks* [cont.]

Staff recommends that the City Council amend Oxnard City Code Sections 2-184 and 2-186 to make clear that the Assistant City Treasurer (instead of the City Treasurer) is the person authorized to oversee the process for the payment of warrants and checks.

This recommendation is based on (1) the clear legal authority cited in the appellate opinion; (2) the court's corresponding final judgment and writ of mandate in this case; and (3) the findings of the outside investigator.

Discussion

What the Court Ordered on January 29, 2025

1. The judgment entered on March 7, 2023 [by Judge Borrell] is vacated.
2. The petition for writ of mandate is granted.
3. City of Oxnard Ordinance No. 2977 is hereby declared void and unenforceable.
4. Section 2-44(C) of part 1 of City of Oxnard Ordinance No. 2643 is hereby declared void and unenforceable.
5. City of Oxnard Resolution No. 15,324 is hereby declared void and unenforceable.
6. City of Oxnard Resolution No. 15,325 is hereby declared void and unenforceable.
7. Petitioner's [Molina's] duty as city treasurer are restored, as specified below.
8. Petitioner's compensation is restored to his compensation as of December 2020 (prior to the City Council's adoption of its resolution declaring the results of canvass of the returns for November 2020 municipal election), retroactive to January 2021.

[*continued*]

Discussion

What the Court Ordered on January 29, 2025 [*cont.*]

9. A writ of mandate shall issue commanding respondents to take the following actions:

(1) Cease to enforce City of Oxnard Ordinance No. 2977.

(2) Cease to enforce Section 2-44(C) of part 1 of City of Oxnard Ordinance No. 2643.

(3) Cease to enforce City of Oxnard Resolution No. 15,324.

(4) Cease to enforce City of Oxnard Resolution No. 15,325.

(5) Restore to the city treasurer the following statutory duties:

A. Receive and safely keep all money the treasurer receives. (Gov. Code § 41001.)

B. Deposit and secure public funds, and handle trust funds in his possession. (Gov. Code § 41002, subd. (a).)

C. Pay out money on warrants signed by legally designated persons. (Gov. Code § 41003.) The City may in its discretion establish its own procedure for the payment of warrants to the extent allowed by law. (Gov. Code § 53910.)

D. Submit to the city clerk at least once each month a written report and accounting of all receipts, disbursements, and fund balances; and file a copy of each report with the City Council. (Gov. Code § 41004.)

E. Duties relative to the collection of the city taxes and license fees prescribed by ordinance. (Gov. Code § 41005.) The City may in its discretion transfer those duties as authorized by law.

Discussion

Complying with the Judgment

If the City Council introduces and adopts the ordinance recommended by this staff report and such ordinance goes into effect, then City will be in compliance with the judgment and the writ of mandate in the following manner:

1. The judgment entered on March 7, 2023 [by Judge Borrell] is vacated. ***No City action is required for this to occur. The appellate decision vacated the March 7, 2023 judgment, as did the judgment filed on January 29, 2025.***

2. The petition for writ of mandate is granted. ***No City action is required for this to occur given the judgment granted the petition for writ of mandate.***

3. City of Oxnard Ordinance No. 2977 is hereby declared void and unenforceable. ***While the judgment declared Ordinance No. 2977 void, the proposed ordinance also repeals Ordinance No. 2977.***

4. Section 2-44(C) of part 1 of City of Oxnard Ordinance No. 2643 is hereby declared void and unenforceable. ***While judgment declared Section 2-44(C) of City of Oxnard Ordinance No. 2643 void, proposed ordinance also repeals Oxnard City Code Section 2-44(C).***

Discussion

Complying with the Judgment [*cont.*]

5. City of Oxnard Resolution No. 15,324 is hereby declared void and unenforceable. ***While the judgment declares Resolution No. 15,324 void, the proposed ordinance also repeals Resolution No. 15,324.***

6. City of Oxnard Resolution No. 15,325 is hereby declared void and unenforceable. ***While the judgment declares Resolution No. 15,325 void, the proposed ordinance also repeals Resolution No. 15,325.***

7. Petitioner's [Molina's] duty as city treasurer are restored, as specified below. ***The City will be in compliance as outlined below.***

8. Petitioner's compensation is restored to his compensation as of December 2020 (prior to the City Council's adoption of its resolution declaring the results of canvass of the returns for November 2020 municipal election), retroactive to January 2021. ***Molina received his back pay totaling $448,767.36 on September 20, 2024 and started receiving his annual salary of $140,979.90 (his salary from December 2020) effective August 7, 2024.***

Discussion

Complying with the Judgment [*cont.*]

9. A writ of mandate shall issue commanding respondents to take the following actions:

(1) Cease to enforce City of Oxnard Ordinance No. 2977. ***The City is not enforcing Ordinance No. 2977, and the proposed ordinance repeals Ordinance No. 2977.***

(2) Cease to enforce Section 2-44(C) of City of Oxnard Ordinance No. 2643. ***The City is not enforcing Oxnard City Code Section 2-44(C), and the proposed ordinance repeals this subsection.***

(3) Cease to enforce City of Oxnard Resolution No. 15,324. ***The City is not enforcing Resolution No. 15,324, and the proposed ordinance repeals Resolution No. 15,324.***

(4) Cease to enforce City of Oxnard Resolution No. 15,325. ***The City is not enforcing Resolution No. 15,325, and the proposed ordinance repeals Resolution No. 15,325.***

(5) Restore the city treasurer the following statutory duties:

(a) A. Receive and safely keep all money the treasurer receives. (Gov.Code § 41001.) ***The City Treasurer would still have this statutory duty but – consistent with state law – the proposed ordinance would transfer the collector duties to the Chief of Police.***

(b) Deposit and secure public funds, and handle trust funds in his possession. Gov. Code § 41002, subd. (a).) ***The City Treasurer would still have this statutory duty but – consistent with state law – the proposed ordinance would transfer the collector duties to the Chief of Police.***

Discussion

Complying with the Judgment [*cont.*]

C. Pay out money on warrants signed by legally designated persons. (Gov. Code § 41003.) The City may in its discretion establish its own procedure for the payment of warrants to the extent allowed by law. (Gov. Code § 53910.) ***With the adoption of the proposed ordinance and the City Council's prior adoption of Resolution No. 15,784 on June 4, 2024, the City has established its own procedure for the payment of warrants consistent with state law.***

D. Submit to the city clerk at least once each month a written report and accounting of all receipts, disbursements, and fund balance; and file a copy of each report with the City Council. (Gov. Code § 41004.)

- *To ensure that a written monthly report and accounting of all receipts, disbursements, and fund balance is provided to the City Clerk and City Council in full compliance with a judgment in a separate lawsuit filed by Moving Oxnard Forward,* ***the City has instituted the transmittal of the written monthly reports to the City Council and the City Clerk.***
- ***Such reports are available online*** *at https://www.oxnard.gov/finance/financial-reporting under the heading"Monthly Financial Reports (Unaudited)." The City's financial information is searchable and downloadable using the Online Interactive Financial Reporting Tool available at https://www.oxnard.org/finances.*
- *The City has had disagreements with Molina regarding the formatting and information provided in the monthly reports, but* ***the format was found acceptable by the court in the Moving Oxnard Forward litigation.***

Discussion

Complying with the Judgment [*cont.*]

E. Duties relative to the collection of city taxes and license fees as prescribed by ordinance. (Gov. Code § 41005.) The City may in its discretion transfer those duties as authorized by law. ***With the transfer of the collector duties to the Chief of Police pursuant to the proposed ordinance, the City Treasurer would not have any "[d]uties relative to the collection of city taxes and license fees as prescribed by ordinance."***

OR

Alternative Option

Although not staff's recommendation, the City Council has the ability to simply return all pre-2020 duties to the elected City Treasurer and not transfer the collector duties to the Chief of Police. If that is the direction of the City Council, staff will return with an implementing ordinance and resolution; however, such action would likely trigger substantial issues, as were outlined in the 83-page report entitled "Confidential Investigative Report Regarding Allegations Against Philip Molina, the City Treasurer, Prepared for the City of Oxnard" dated February 10, 2020.

Staff Recommendation

Staff recommends that the City Council approve the first reading by title only and waive further reading of an ordinance entitled:

An ordinance of the City Council of the City of Oxnard Amending Specific Provisions of the Oxnard City Code to Transfer the Duties Relating to the Collection of Fees and Taxes from the City Treasurer to the Police Chief, and Modify the Procedure for the Payments of Demands, Warrants and Checks so that Certain Duties Held by the City Treasurer are transferred to the Assistant City Treasurer